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STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

1993 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 1993

BEGINNING ON

WEDNESDAY, THE TWENTY-SEVENTH DAY OF JANUARY, A.D. 1993

HELD IN THE CITY OF RALEIGH

ISSUED BY
SECRETARY OF STATE RUFUS L. EDMISTEN

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[1] Please note: Chapters 556, 557, 559 and 562 were held for ratification and ratified May 24, 1994—see the 1993 Session Laws, Second Session 1994. The bill bearing Chapter number 560 was recalled from enrolling and the Chapter number reassigned in the 1994 Second Session.



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H.B. 874 **CHAPTER 456**

AN ACT TO INCREASE THE MOTOR VEHICLES TAX THAT MAY BE LEVIED BY THE CITY OF DURHAM AND TO ALLOW ALLEGHANY COUNTY TO LEVY A MOTOR VEHICLES TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) reads as rewritten:

"(a) All taxes levied under the provisions of this Article are intended as compensatory taxes for the use and privileges of the public highways of this State, and shall be paid by the Commissioner to the State Treasurer, to be credited by him to the State Highway Fund; and no county or municipality shall levy any license or privilege tax upon any motor vehicle licensed by the State of North Carolina, except that cities and towns ~~other than the City of Durham~~ may levy not more than five dollars ($5.00) per year upon any vehicle resident ~~therein, and except that the City of Durham may levy not more than one dollar ($1.00) per year upon any vehicle resident~~ therein. Provided, further, that cities and towns may levy, in addition to the amounts hereinabove provided for, a sum not to exceed fifteen dollars ($15.00) per year upon each vehicle operated in such city or town as a taxicab."

Sec. 1.1. G.S. 20-97(a), as rewritten by Section 1 of this act, reads as rewritten:

"(a) All taxes levied under the provisions of this Article are intended as compensatory taxes for the use and privileges of the public highways of this State, and shall be paid by the Commissioner to the State Treasurer, to be credited by him to the State Highway Fund; and no county or ~~municipality~~ municipality, other than Alleghany County, shall levy any license or privilege tax upon any motor vehicle licensed by the State of North Carolina, except that cities and towns may levy not more than five dollars ($5.00) per year upon any vehicle ~~resident,~~ resident, and except that Alleghany County may levy not more than ten dollars ($10.00) per year upon any vehicle resident. Provided, further, that cities and towns may levy, in addition to the amounts hereinabove provided for, a sum not to exceed fifteen dollars ($15.00) per year upon each vehicle operated in such city or town as a taxicab."

Sec. 1.2. Section 1.1 of this act applies to Alleghany County only.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 1127 **CHAPTER 457**

AN ACT TO AUTHORIZE THE CONVEYANCE OF A RIGHT-OF-WAY TO THE DEPARTMENT OF TRANSPORTATION WITHIN PILOT MOUNTAIN STATE PARK.

The General Assembly of North Carolina enacts:

Section 1. Article 25B of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"*§ 143-260.10F. Road right-of-way; Pilot Mountain State Park.*

(a) Notwithstanding the provisions of G.S. 143-260.10, the State of North Carolina may convey a road right-of-way to the Department of Transportation across lands within Pilot Mountain State Park. The right-of-way for the road shall begin 71.9 feet S 70° 41' 12" E of park corner number 94 as shown on the June 1, 1968, Pilot Mountain State Park survey by Southern Mapping & Engineering Company. From point of beginning N 70° 41' 12" W for 71.9 feet, then following the centerline of the existing road SR 2068 N 02° 31' 21" E for 24.13 feet, then N 25° 17' 28" E for 225.06 feet, then N 35° 31'48" E for 139.35 feet, then with the northern boundary of the park S 55° 48' 51" E for 30.0 feet, then along new right-of-way line for approximately 350 feet as shown on Department of Transportation Plat of SR 2068, Shoals Road - McKinney Cut, Surry County, W.O. 6.742488 dated August 28, 1992, to point of beginning. The area of this right-of-way is approximately 17,850 square feet.

(b) The property described in subsection (a) of this section is removed from the State Nature and Historic Preserve and deleted from the State Parks System.

(c) The State shall only use the proceeds from this right-of-way to acquire lands for the expansion of Pilot Mountain State Park."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 516 **CHAPTER 458**

AN ACT TO AUTHORIZE THE EXTENSION OF COUNTY HOUSING AUTHORITY JURISDICTION TO CITIES LOCATED IN WHOLE OR IN PART WITHIN THE COUNTY'S BOUNDARIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-39.1(a) reads as rewritten:

"(a) The boundaries or area of operation of a housing authority created for a city shall include said city and the area within 10 miles from the territorial boundaries of said city, but in no event shall it include the whole or a part of any other city, except as otherwise provided herein. Notwithstanding the previous sentence, a housing authority created for a city may operate and perform any of its lawful functions within any other city that has a common boundary with a city creating an authority when requested to do so by resolution of the governing body of such other city. The area of operation or boundaries of a housing authority created for a county shall include all of the county for which it is created and the area of operation or boundaries of a regional housing authority shall include (except as otherwise provided elsewhere in this Article) all of the counties for which such regional housing authority is created and established: Provided, that a county or regional housing authority shall not undertake any housing project or projects within the boundaries of any city unless a resolution shall have been adopted by the governing body of such city (and also by any housing authority which shall have been theretofore established and authorized to exercise its powers in such city) declaring that there is a need for the county or regional housing authority to exercise its power within such city: Provided, that the jurisdiction of any rural housing authority to which the Secretary of State has heretofore issued a certificate of incorporation shall extend to within a distance of one mile of the town or city limits of any town or city having a population in excess of 500, located in any county now or hereafter constituting a part of the territory of such rural housing authority: Provided, further, that this provision shall not affect the jurisdiction of any city housing authority to which the Secretary of State has heretofore issued a certificate of incorporation. A housing authority created for a county may operate and perform any of its lawful functions anywhere within the municipal boundaries of any city located in whole or in part within the county for which it is created, when requested to do so by resolution of the governing body of such city."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 658 **CHAPTER 459**

AN ACT TO EXPAND THE PROPERTY TAX EXEMPTION FOR COMPUTER SOFTWARE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-273(8a) reads as rewritten:

"(8a) 'Inventories' means (i) goods held for sale in the regular course of business by manufacturers, retail and wholesale merchants, and contractors, and (ii) goods held by contractors to be furnished in the course of building, installing, repairing, or improving real property. As to manufacturers, the term includes raw materials, goods in process, and finished goods, as well as other materials or supplies that are consumed in manufacturing or processing, or that accompany and become a part of the sale of the property being sold. The term also includes crops, livestock, poultry, feed used in the production of livestock and poultry, and other agricultural or horticultural products held for sale, whether in process or ready for sale. The term does not include fuel used in manufacturing or processing, nor does it include materials or supplies not used directly in manufacturing or processing. As to retail and wholesale merchants and contractors, the term includes, in addition to articles held for sale, packaging materials that accompany and become a part of the sale of the property being sold.

~~As to manufacturers and retail and wholesale merchants the term also includes the following computer software, as long as the software is not treated as a capital asset by the taxpayer for income tax purposes:~~

~~a. Computer software developed or modified by the owner or licensee for its own use.~~

~~b. Computer software developed or modified to the special order of or to meet the particular needs of the owner or licensee.~~

~~c. Computer software developed, acquired, or used to develop or enhance computer software for license or sale to ultimate consumers.~~

~~For the purpose of this paragraph, the term 'computer software' means a program or routine used to cause a computer to perform a specific task or set of tasks; it includes both system and application programs and any documentation related to the computer software.~~"

Sec. 2. G.S. 105-275 is amended by adding a new subdivision to read:

"(40) Computer software and any documentation related to the computer software. As used in this subdivision, the term 'computer software' means any program or routine used to cause a computer to perform a specific task or set of

tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

a. It is embedded software. 'Embedded software' means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.

b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other.

This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter."

Sec. 3. G.S. 105-282.1(a)(2) reads as rewritten:

"(2) Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (15), (16), (26), (31), (32a), (33), ~~or~~ (34), or (40), or exempted under G.S. 105-278.2 are not required to file applications for the exclusion or exemption of that property."

Sec. 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1994.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 806 **CHAPTER 460**

AN ACT TO PROVIDE THAT VOTER REGISTRATION SHALL BE THE SOLE CRITERIA FOR ALLOCATING VOTING MACHINES AMONG PRECINCTS IN ANY COUNTY WITH

FOUR HUNDRED FIFTY THOUSAND OR MORE POPULATION.

The General Assembly of North Carolina enacts:

Section 1. Article 14 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"*§ 163-166. Allocation of voting systems.*

In allocating to precincts voting systems as defined in G.S. 163-160.1, the sole criteria shall be voter registration in the precinct."

Sec. 2. This act applies only to counties of 450,000 or more population according to the 1990 census.

Sec. 3. This act is effective with respect to elections conducted on or after January 1, 1994.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 860 **CHAPTER 461**

AN ACT TO CLARIFY THE PUBLIC RECORDS LAW WITH RESPECT TO CRIMINAL INVESTIGATIVE RECORDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 132 of the General Statutes is amended by adding a new section to read:

"*§ 132-1.4. Criminal investigations; intelligence information records.*

(a) Records of criminal investigations conducted by public law enforcement agencies or records of criminal intelligence information compiled by public law enforcement agencies are not public records as defined by G.S. 132-1. Records of criminal investigations conducted by public law enforcement agencies or records of criminal intelligence information may be released by order of a court of competent jurisdiction.

(b) As used in this section:

(1) 'Records of criminal investigations' means all records or any information that pertains to a person or group of persons that is compiled by public law enforcement agencies for the purpose of attempting to prevent or solve violations of the law, including information derived from witnesses, laboratory tests, surveillance, investigators, confidential informants, photographs, and measurements.

(2) 'Records of criminal intelligence information' means records or information that pertain to a person or group of persons that is compiled by a public law enforcement agency in an

effort to anticipate, prevent, or monitor possible violations of the law.

(3) 'Public law enforcement agency' means a municipal police department, a county police department, a sheriff's department, a company police agency commissioned by the Attorney General pursuant to G.S. 74E-1, *et seq.*, and any State or local agency, force, department, or unit responsible for investigating, preventing, or solving violations of the law.

(4) 'Violations of the law' means crimes and offenses that are prosecutable in the criminal courts in this State or the United States and infractions as defined in G.S. 14-3.1.

(5) 'Complaining witness' means an alleged victim or other person who reports a violation or apparent violation of the law to a public law enforcement agency.

(c) Notwithstanding the provisions of this section, and unless otherwise prohibited by law, the following information shall be public records within the meaning of G.S. 132-1.

(1) The time, date, location, and nature of a violation or apparent violation of the law reported to a public law enforcement agency.

(2) The name, sex, age, address, employment, and alleged violation of law of a person arrested, charged, or indicted.

(3) The circumstances surrounding an arrest, including the time and place of the arrest, whether the arrest involved resistance, possession or use of weapons, or pursuit, and a description of any items seized in connection with the arrest.

(4) The contents of '911' and other emergency telephone calls received by or on behalf of public law enforcement agencies, except for such contents that reveal the name, address, telephone number, or other information that may identify the caller, victim, or witness.

(5) The contents of communications between or among employees of public law enforcement agencies that are broadcast over the public airways.

(6) The name, sex, age, and address of a complaining witness.

(d) A public law enforcement agency shall temporarily withhold the name or address of a complaining witness if release of the information is reasonably likely to pose a threat to the mental health, physical health, or personal safety of the complaining witness or materially compromise a continuing or future criminal investigation or criminal intelligence operation. Information temporarily withheld under this subsection shall be made available for release to the public in accordance with G.S. 132-6 as soon as the circumstances that justify withholding it cease to exist. Any person denied access to information

withheld under this subsection may apply to a court of competent jurisdiction for an order compelling disclosure of the information. In such action, the court shall balance the interests of the public in disclosure against the interests of the law enforcement agency and the alleged victim in withholding the information. Actions brought pursuant to this subsection shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(e) If a public law enforcement agency believes that release of information that is a public record under subdivisions (c)(1) through (c)(5) of this section will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information. In such action the law enforcement agency shall have the burden of showing by a preponderance of the evidence that disclosure of the information in question will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation. Actions brought pursuant to this subsection shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(f) Nothing in this section shall be construed as authorizing any public law enforcement agency to prohibit or prevent another public agency having custody of a public record from permitting the inspection, examination, or copying of such public record in compliance with G.S. 132-6. The use of a public record in connection with a criminal investigation or the gathering of criminal intelligence shall not affect its status as a public record.

(g) Disclosure of records of criminal investigations and criminal intelligence information that have been transmitted to a district attorney or other attorney authorized to prosecute a violation of law shall be governed by this section and Chapter 15A of the General Statutes.

(h) Nothing in this section shall be construed as requiring law enforcement agencies to disclose the following:

(1) Information that would not be required to be disclosed under Chapter 15A of the General Statutes; or

(2) Information that is reasonably likely to identify a confidential informant.

(i) Law enforcement agencies shall not be required to maintain any tape recordings of '911' or other communications for more than 30 days from the time of the call, unless a court of competent jurisdiction orders a portion sealed.

(j) When information that is not a public record under the provisions of this section is deleted from a document, tape recording, or other record, the law enforcement agency shall make clear that a deletion has been made. Nothing in this subsection shall authorize the destruction of the original record.

(k) The following court records are public records and may be withheld only when sealed by court order: arrest and search warrants that have been returned by law enforcement agencies, indictments, criminal summons, and nontestimonial identification orders.

(l) Records of investigations of alleged child abuse shall be governed by G.S. 7A-675."

Sec. 2. G.S. 114-15 and reads as rewritten:

"~~All records and evidence collected and compiled by the Director of the Bureau and his assistants shall not be considered public records within the meaning of G.S. 132-1, and following, of the General Statutes of North Carolina and may be made available to the public only upon an order of a court of competent jurisdiction. Provided that, all~~ All records and evidence collected and compiled by the Director of the Bureau and his assistants shall, upon request, be made available to the district attorney of any district if the same concerns persons or investigations in his district.

In all cases where the cost is assessed against the defendant and paid by him, there shall be assessed in the bill of cost, mileage and witness fees to the Director and any of his assistants who are witnesses in cases arising in courts of this State. The fees so assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund."

Sec. 3. This act is effective October 1, 1993.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 892 **CHAPTER 462**

AN ACT TO REQUIRE THAT A DELINQUENT JUVENILE ON PROBATION AND REQUIRED TO ATTEND SCHOOL AS A CONDITION OF PROBATION BE REQUIRED TO MAINTAIN A PASSING GRADE IN FOUR COURSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-649(8) reads as rewritten:

"(8) Place the juvenile on probation under the supervision of a court counselor. In any case where a juvenile is placed on probation, the court counselor shall have the authority to

visit the juvenile where he resides. The judge shall specify conditions of probation that are related to the needs of the juvenile including any of the ~~following which apply:~~ following:

a. That the juvenile shall remain on good behavior and not violate any laws;
b. That the juvenile attend school regularly;
b1. That the juvenile maintain passing grades in up to four courses during each grading period and meet with the court counselor and a representative of the school to make a plan for how to maintain those passing grades;
c. That the juvenile not associate with specified persons or be in specified places;
d. That the juvenile report to a court counselor as often as required by a court counselor;
e. That the juvenile make specified financial restitution or pay a fine in accordance with subdivisions (2) and (3);
f. That the juvenile be employed regularly if not attending school.

An order of probation shall remain in force for a period not to exceed one year from the date entered. Prior to expiration of an order of probation, the judge may extend it for an additional period of one year after a hearing if he finds that the extension is necessary to protect the community or to safeguard the welfare of the juvenile;".

Sec. 2. This act becomes effective October 1, 1993, and applies to orders of probation for adjudications of delinquency for acts committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 899 **CHAPTER 463**

AN ACT TO ENACT NEW ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE AND TO ADD A NEW ARTICLE 2 TO CHAPTER 22B OF THE GENERAL STATUTES MAKING JURY TRIAL WAIVER PROVISIONS IN CONTRACTS UNENFORCEABLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 25 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 2A.

"Leases.

"PART 1.
"GENERAL PROVISIONS.

"§ 25-2A-101. *Short title.*

This Article shall be known and may be cited as the Uniform Commercial Code - Leases.

"§ 25-2A-102. *Scope.*

This Article applies to any transaction, regardless of form, that creates a lease.

"§ 25-2A-103. *Definitions and index of definitions.*

(1) In this Article unless the context otherwise requires:

(a) 'buyer in ordinary course of business', means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. 'Buying' may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) 'cancellation' occurs when either party puts an end to the lease contract for default by the other party.

(c) 'commercial unit' means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) 'conforming' goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) 'consumer lease' means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars ($25,000).

(f) 'fault' means wrongful act, omission, breach, or default.

(g) 'finance lease' means a lease with respect to which: (i) the lessor does not select, manufacturer, or supply the goods; (ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and (iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this Article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) 'goods' means all things that are movable at the time of identification to the lease contract, or are fixtures (G.S. 25-2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) 'installment lease contract' means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause 'each delivery is a separate lease' or its equivalent.

(j) 'lease' means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) 'lease agreement' means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) 'lease contract' means the total legal obligation that results from the lease agreement as affected by this Article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) 'leasehold interest' means the interest of the lessor or the lessee under a lease contract.

(n) 'lessee' means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) 'lessee in ordinary course of business' means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. 'Leasing' may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) 'lessor' means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) 'lessor's residual interest' means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) 'lien' means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) 'lot' means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) 'merchant lessee' means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) 'present value' means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a

commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) 'purchase' includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) 'sublease' means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) 'supplier' means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) 'supply contract' means a contract under which a lessor buys or leases goods to be leased.

(z) 'termination' occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this Article and the sections in which they appear are:

'Accessions'. G.S. 25-2A-310(1).
'Construction mortgage'. G.S. 25-2A-309(1)(d).
'Encumbrance'. G.S. 25-2A-309(1)(e).
'Fixtures'. G.S. 25-2A-309(1)(a).
'Fixture filing'. G.S. 25-2A-309(1)(b).
'Purchase money lease'. G.S. 25-2A-309(1)(c).

(3) The following definitions in other Articles apply to this Article:

'Account'. G.S. 25-9-106.
'Between merchants'. G.S. 25-2-104(3).
'Buyer'. G.S. 25-2-103(1)(a).
'Chattel paper'. G.S. 25-9-105(1)(b).
'Consumer goods'. G.S. 25-9-109(1).
'Document'. G.S. 25-9-105(1)(f).
'Entrusting'. G.S. 25-2-403(3).
'General intangibles'. G.S. 25-9-106.
'Good faith'. G.S. 25-2-103(1)(b).
'Instrument'. G.S. 25-9-105(1)(i).
'Merchant'. G.S. 25-2-104(1).
'Mortgage'. G.S. 25-9-105(1)(j).
'Pursuant to commitment'. G.S. 25-9-105(1)(k).
'Receipt'. G.S. 25-2-103(1)(c).
'Sale'. G.S. 25-2-106(1).
'Sale on approval'. G.S. 25-2-326.
'Sale or return'. G.S. 25-2-326.
'Seller'. G.S. 25-2-103(1)(d).

(4) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

"§ 25-2A-104. *Leases subject to other law.*

(1) A lease, although subject to this Article, is also subject to any applicable:

(a) certificate of title statute of this State (G.S. 20-50, G.S. 75A-32 *et seq.*);

(b) certificate of title statute of another jurisdiction (G.S. 25-2A-105); or

(c) consumer protection statute of this State, or final consumer protection decision of a court of this State existing on the effective date of this Article.

(2) In case of conflict between this Article, other than G.S. 2A-105, 2A-304(3), and 2A-305(3), and a statute or decision referred to in subsection (1) of this section, the statute or decision controls.

(3) Failure to comply with an applicable law has only the effect specified therein.

"§ 25-2A-105. *Territorial application of Article to goods covered by certificate of title.*

Subject to the provisions of G.S. 25-2A-304(3) and G.S. 25-2A-305(3), with respect to goods covered by a certificate of title issued under a statute of this State or of another jurisdiction, compliance and the effect of compliance or noncompliance with a certificate of title statute are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until the earlier of (a) surrender of the certificate, or (b) four months after the goods are removed from that jurisdiction and thereafter until a new certificate of title is issued by another jurisdiction.

"§ 25-2A-106. *Limitation on power of parties to consumer lease to choose applicable law and judicial forum.*

(1) If the law chosen by the parties to a consumer lease is that of a jurisdiction other than a jurisdiction in which the lessee resides at the time the lease agreement becomes enforceable or within 30 days thereafter or in which the goods are to be used, that choice of law is not enforceable.

(2) If the judicial forum chosen by the parties to a consumer lease is a forum that would not otherwise have jurisdiction over the lessee, that choice of forum is not enforceable.

"§ 25-2A-107. *Waiver or renunciation of claim or right after default.*

Any claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.

"§ 25-2A-108. *Unconscionability.*

(1) If the court as a matter of law finds a lease contract or any clause of a lease contract to have been unconscionable at the time it was made, the court may refuse to enforce the lease contract, or it may enforce the remainder of the lease contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(2) With respect to a consumer lease, if the court as a matter of law finds that a lease contract or any clause of a lease contract has been induced by unconscionable conduct or that unconscionable conduct has occurred in the collection of a claim arising from a lease contract, the court may grant appropriate relief.

(3) Before making a finding of unconscionability under subsection (1) or (2) of this section, the court, on its own motion or that of a party, shall afford the parties a reasonable opportunity to present evidence as to the setting, purpose, and effect of the lease contract or clause thereof, or of the conduct.

(4) In an action in which the lessee claims unconscionability with respect to a consumer lease:

(a) if the court finds unconscionability under subsection (1) or (2) of this section, the court shall award reasonable attorneys' fees to the lessee.

(b) if the court does not find unconscionability and the lessee claiming unconscionability has brought or maintained an action he knew to be groundless, the court shall award reasonable attorneys' fees to the party against whom the claim is made.

(c) in determining attorneys' fees, the amount of the recovery on behalf of the claimant under subsections (1) and (2) of this section is not controlling.

"*§ 25-2A-109. Option to accelerate at will.*

(1) A term providing that one party or his successor in interest may accelerate payment or performance or require collateral or additional collateral 'at will' or 'when he deems himself insecure' or in words of similar import must be construed to mean that he has power to do so only if he in good faith believes that the prospect of payment or performance is impaired.

(2) With respect to a consumer lease, the burden of establishing good faith under subsection (1) of this section is on the party who exercised the power; otherwise, the burden of establishing lack of good faith is on the party against whom the power has been exercised.

"PART 2.

"FORMATION AND CONSTRUCTION OF LEASE CONTRACT.

"*§ 25-2A-201. Statute of frauds.*

(1) A lease contract is not enforceable by way of action or defense unless:

(a) the total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than one thousand dollars ($1,000); or

(b) there is a writing, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

(2) Any description of leased goods or of the lease term is sufficient and satisfies subsection (1)(b) of this section, whether or not it is specific, if it reasonably identifies what is described.

(3) A writing is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under subsection (1)(b) of this section beyond the lease term and the quantity of goods shown in the writing.

(4) A lease contract that does not satisfy the requirements of subsection (1) of this section, but which is valid in other respects, is enforceable:

(a) if the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;

(b) if the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods that have been received and accepted by the lessee.

(5) The lease term under a lease contract referred to in subsection (4) of this section is:

(a) if there is a writing signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

(b) if the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted;

(c) if there is other evidence of the parties' intent with regard to the lease term, the term so intended; or

(d) in the absence of evidence of the parties' intent, a reasonable lease term.

"§ 25-2A-202. *Final written expression: parol or extrinsic evidence.*

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) by course of dealing or usage of trade or by course of performance; and

(b) by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

"§ 25-2A-203. *Seals inoperative.*

The affixing of a seal to a writing evidencing a lease contract or an offer to enter into a lease contract does not render the writing a sealed instrument and the law with respect to sealed instruments does not apply to the lease contract or offer.

"§ 25-2A-204. *Formation in general.*

(1) A lease contract may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of a lease contract.

(2) An agreement sufficient to constitute a lease contract may be found although the moment of its making is undetermined.

(3) Although one or more terms are left open, a lease contract does not fail for indefiniteness if the parties have intended to make a lease contract and there is a reasonably certain basis for giving an appropriate remedy.

"§ 25-2A-205. *Firm offers.*

An offer by a merchant to lease goods to or from another person in a signed writing that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed three months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

"§ 25-2A-206. *Offer and acceptance in formation of lease contract.*

(1) Unless otherwise unambiguously indicated by the language or circumstances, an offer to make a lease contract must be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances.

(2) If the beginning of a requested performance is a reasonable mode of acceptance, an offeror who is not notified of acceptance within a reasonable time may treat the offer as having lapsed before acceptance.

"§ 25-2A-207. *Course of performance or practical construction.*

(1) If a lease contract involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection is relevant to determine the meaning of the lease agreement.

(2) The express terms of a lease agreement and any course of performance, as well as any course of dealing and usage of trade, must be construed whenever reasonable as consistent with each other; but if that construction is unreasonable, express terms control course of performance, course of performance controls both course of dealing and usage of trade, and course of dealing controls usage of trade.

(3) Subject to the provisions of G.S. 25-2A-208 on modification and waiver, course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

"§ *25-2A-208. Modification, rescission and waiver.*

(1) An agreement modifying a lease contract needs no consideration to be binding.

(2) A signed lease agreement that excludes modification or rescission except by a signed writing may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

(3) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2) of this section, it may operate as a waiver.

(4) A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

"§ *25-2A-209. Lessee under finance lease as beneficiary of supply contract.*

(1) The benefit of a supplier's promises to the lessor under the supply contract and of all warranties, whether express or implied, including those of any third party provided in connection with or as part of the supply contract, extends to the lessee to the extent of the lessee's leasehold interest under a finance lease related to the supply contract, but is subject to the terms of the warranty and of the supply contract and all defenses or claims arising therefrom.

(2) The extension of the benefit of a supplier's promises and of warranties to the lessee (G.S. 25-2A-209(1)) does not: (i) modify the rights and obligations of the parties to the supply contract, whether arising therefrom or otherwise, or (ii) impose any duty or liability under the supply contract on the lessee.

(3) Any modification or rescission of the supply contract by the supplier and the lessor is effective between the supplier and the lessee unless, before the modification or rescission, the supplier has received notice that the lessee has entered into a finance lease related to the supply contract. If the modification or rescission is effective between the supplier and the lessee, the lessor is deemed to have assumed, in addition to the obligations of the lessor to the lessee under the lease contract, promises of the supplier to the lessor and warranties that were so modified or rescinded as they existed and were available to the lessee before modification or rescission.

(4) In addition to the extension of the benefit of the supplier's promises and of warranties to the lessee under subsection (1) of this section, the lessee retains all rights that the lessee may have against the supplier which arise from an agreement between the lessee and the supplier or under other law.

"*§ 25-2A-210. Express warranties.*

(1) Express warranties by the lessor are created as follows:

(a) any affirmation of fact or promise made by the lessor to the lessee which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods will conform to the affirmation or promise.

(b) any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods will conform to the description.

(c) any sample or model that is made part of the basis of the bargain creates an express warranty that the whole of the goods will conform to the sample or model.

(2) It is not necessary to the creation of an express warranty that the lessor use formal words, such as 'warrant' or 'guarantee', or that the lessor have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the lessor's opinion or commendation of the goods does not create a warranty.

"*§ 25-2A-211. Warranties against interference and against infringement; lessee's obligation against infringement.*

(1) There is in a lease contract a warranty that for the lease term no person holds a claim to or interest in the goods that arose from an act or omission of the lessor, other than a claim by way of infringement or the like, which will interfere with the lessee's enjoyment of its leasehold interest.

(2) Except in a finance lease there is in a lease contract by a lessor who is a merchant regularly dealing in goods of the kind a warranty that the goods are delivered free of the rightful claim of any person by way of infringement or the like.

(3) A lessee who furnishes specifications to a lessor or a supplier shall hold the lessor and the supplier harmless against any claim by way of infringement of the like that arises out of compliance with the specifications.

"§ 25-2A-212. *Implied warranty of merchantability.*

(1) Except in a finance lease, a warranty that the goods will be merchantable is implied in a lease contract if the lessor is a merchant with respect to goods of that kind.

(2) Goods to be merchantable must be at least such as:

(a) pass without objection in the trade under the description in the lease agreement;

(b) in the case of fungible goods, are of fair average quality within the description;

(c) are fit for the ordinary purposes for which goods of that type are used;

(d) run, within the variation permitted by the lease agreement, of even kind, quality, and quantity within each unit and among all units involved;

(e) are adequately contained, packaged, and labeled as the lease agreement may require; and

(f) conform to any promises or affirmations of fact made on the container or label.

(3) Other implied warranties may arise from course of dealing or usage of trade.

"§ 25-2A-213. *Implied warranty of fitness for particular purpose.*

Except in a finance lease, if the lessor at the time the lease contract is made has reason to know of any particular purpose for which the goods are required and that the lessee is relying on the lessor's skill or judgment to select or furnish suitable goods, there is in the lease contract an implied warranty that the goods will be fit for that purpose.

"§ 25-2A-214. *Exclusion or modification of warranties.*

(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit a warranty must be construed wherever reasonable as consistent with each other; but, subject to the provisions of G.S. 25-2A-202 on parol or extrinsic evidence, negation or limitation is inoperative to the extent that the construction is unreasonable.

(2) Subject to subsection (3) of this section, to exclude or modify the implied warranty of merchantability, or any part of it, the language must mention 'merchantability', by a writing, and be conspicuous. Subject to subsection (3) of this section, to exclude or modify any implied warranty of fitness, the exclusion must be by a writing and be conspicuous. Language to exclude all implied warranties of fitness is

sufficient if it is in writing, is conspicuous, and states, for example, 'There is no warranty that the goods will be fit for a particular purpose.'

(3) Notwithstanding subsection (2) of this section, but subject to subsection (4) of this section:

(a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like 'as is', or 'with all faults', or by other language that in common understanding calls the lessee's attention to the exclusion of warranties and makes plain that there is no implied warranty, if in writing and conspicuous;

(b) if the lessee before entering into the lease contract has examined the goods or the sample or model as fully as desired or has refused to examine the goods, there is no implied warranty with regard to defects that an examination ought in the circumstances to have revealed; and

(c) an implied warranty may also be excluded or modified by course of dealing, course of performance, or usage of trade.

(4) To exclude or modify a warranty against interference or against infringement (G.S. 25-2A-211) or any part of it, the language must be specific, be by a writing, and be conspicuous, unless the circumstances, including course of performance, course of dealing, or usage of trade, give the lessee reason to know that the goods are being leased subject to a claim or interest of any person.

"§ 25-2A-215. *Cumulation and conflict of warranties express or implied.*

Warranties, whether express or implied, must be construed as consistent with each other and as cumulative, but if that construction is unreasonable, the intention of the parties determines which warranty is dominant. In ascertaining that intention the following rules apply:

(a) exact or technical specifications displace an inconsistent sample or model or general language of description.

(b) a sample from an existing bulk displaces inconsistent general language of description.

(c) express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose.

"§ 25-2A-216. *Third-party beneficiaries of express and implied warranties.*

A warranty to or for the benefit of a lessee under this Article, whether express or implied, extends to any natural person who is in the family or household of the lessee or who is a guest in the lessee's home if it is reasonable to expect that such person may use, consume, or be affected by the goods and who is injured in person by breach of the warranty. This section does not displace principles of law and

equity that extend a warranty to or for the benefit of a lessee to other persons. The operation of this section may not be excluded, modified, or limited, but an exclusion, modification, or limitation of the warranty, including any with respect to rights and remedies, effective against the lessee is also effective against any beneficiary designated under this section.

"§ 25-2A-217. *Identification.*

Identification of goods as goods to which a lease contract refers may be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement, identification occurs:

(a) when the lease contract is made if the lease contract is for a lease of goods that are existing and identified;

(b) when the goods are shipped, marked, or otherwise designated by the lessor as goods to which the lease contract refers, if the lease contract is for a lease of goods that are not existing and identified; or

(c) when the young are conceived, if the lease contract is for a lease of unborn young of animals.

"§ 25-2A-218. *Insurance and proceeds.*

(1) A lessee obtains an insurable interest when existing goods are identified to the lease contract even though the goods identified are nonconforming and the lessee has an option to reject them.

(2) If a lessee has an insurable interest only by reason of the lessor's identification of the goods, the lessor, until default or insolvency or notification to the lessee that identification is final, may substitute other goods for those identified.

(3) Notwithstanding a lessee's insurable interest under subsections (1) and (2) of this section, the lessor retains an insurable interest until an option to buy has been exercised by the lessee and risk of loss has passed to the lessee.

(4) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law.

(5) The parties by agreement may determine that one or more parties have an obligation to obtain and pay for insurance covering the goods and by agreement may determine the beneficiary of the proceeds of the insurance.

"§ 25-2A-219. *Risk of loss.*

(1) Except in the case of a finance lease, risk of loss is retained by the lessor and does not pass to the lessee. In the case of a finance lease, risk of loss passes to the lessee.

(2) Subject to the provisions of this Article on the effect of default on risk of loss (G.S. 25-2A-220), if risk of loss is to pass to the lessee and the time of passage is not stated, the following rules apply:

(a) if the lease contract requires or authorizes the goods to be shipped by carrier (i) and it does not require delivery at a particular

destination, the risk of loss passes to the lessee when the goods are duly delivered to the carrier; but (ii) if it does require delivery at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the lessee when the goods are there duly so tendered as to enable the lessee to take delivery.

(b) if the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the lessee on acknowledgment by the bailee of the lessee's right to possession of the goods.

(c) in any case not within subdivision (a) or (b) of this section, the risk of loss passes to the lessee on the lessee's receipt of the goods if the lessor, or, in the case of a finance lease, the supplier, is a merchant; otherwise the risk passes to the lessee on tender of delivery.

"§ 25-2A-220. *Effect of default on risk of loss.*

(1) Where risk of loss is to pass to the lessee and the time of passage is not stated:

(a) if a tender or delivery of goods so fails to conform to the lease contract as to give a right of rejection, the risk of their loss remains with the lessor, or, in the case of a finance lease, the supplier, until cure or acceptance.

(b) if the lessee rightfully revokes acceptance, he, to the extent of any deficiency in his effective insurance coverage, may treat the risk of loss as having remained with the lessor from the beginning.

(2) Whether or not risk of loss is to pass to the lessee, if the lessee as to conforming goods already identified to a lease contract repudiates or is otherwise in default under the lease contract, the lessor, or, in the case of a finance lease, the supplier, to the extent of any deficiency in his effective insurance coverage may treat the risk of loss as resting on the lessee for a commercially reasonable time.

"§ 25-2A-221. *Casualty to identified goods.*

If a lease contract requires goods identified when the lease contract is made, and the goods suffer casualty without fault of the lessee, the lessor, or the supplier before delivery, or the goods suffer casualty before risk of loss passes to the lessee pursuant to the lease agreement or G.S. 25-2A-219, then:

(a) if the loss is total, the lease contract is avoided; and

(b) if the loss is partial or the goods have so deteriorated as to no longer conform to the lease contract, the lessee may nevertheless demand inspection and at his option either treat the lease contract as avoided or, except in a finance lease that is not a consumer lease, accept the goods with due allowance from the rent payable for the balance of the lease term for the deterioration or the deficiency in quantity but without further right against the lessor.

"PART 3.
"EFFECT OF LEASE CONTRACT.

"§ 25-2A-301. *Enforceability of lease contract.*

Except as otherwise provided in this Article, a lease contract is effective and enforceable according to its terms between the parties, against purchasers of the goods, and against creditors of the parties.

"§ 25-2A-302. *Title to and possession of goods.*

Except as otherwise provided in this Article, each provision of this Article applies whether the lessor or a third party has title to the goods, and whether the lessor, the lessee, or a third party has possession of the goods, notwithstanding any statute or rule of law that possession or the absence of possession is fraudulent.

"§ 25-2A-303. *Alienability of party's interest under lease contract or of lessor's residual interest in goods; delegation of performance; transfer of rights.*

(1) As used in this section, 'creation of a security interest' includes the sale of a lease contract that is subject to Article 9 of this Chapter, Secured Transactions, by reason of G.S. 25-9-102(1)(b).

(2) Except as provided in subsections (3) and (4) of this section, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation, or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection (5) of this section, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3) A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) of this section unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.

(4) A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (5) of this section.

(5) Subject to subsections (3) and (4) of this section:

(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in G.S. 25-2A-501(2);

(b) if paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(6) A transfer of 'the lease' or of 'all my rights under the lease', or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(7) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(8) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

"*§ 25-2A-304. Subsequent lease of goods by lessor.*

(1) Subject to G.S. 25-2A-303, a subsequent lessee from a lessor of goods under an existing lease contract obtains, to the extent of the leasehold interest transferred, the leasehold interest in the goods that

the lessor had or had power to transfer, and except as provided in subsection (2) of this section and G.S. 25-2A-527(4), takes subject to the existing lease contract. A lessor with voidable title has power to transfer a good leasehold interest to a good faith subsequent lessee for value, but only to the extent set forth in the preceding sentence. If goods have been delivered under a transaction of purchase, the lessor has that power even though:

(a) the lessor's transferor was deceived as to the identity of the lessor;

(b) the delivery was in exchange for a check which is later dishonored;

(c) it was agreed that the transaction was to be a 'cash sale'; or

(d) the delivery was procured through fraud punishable as larcenous under the criminal law.

(2) A subsequent lessee in the ordinary course of business from a lessor who is a merchant dealing in goods of that kind to whom the goods were entrusted by the existing lessee of that lessor before the interest of the subsequent lessee became enforceable against that lessor obtains, to the extent of the leasehold interest transferred, all of that lessor's and the existing lessee's rights to the goods, and takes free of the existing lease contract.

(3) A subsequent lessee from the lessor of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of this State or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.

"§ 25-2A-305. *Sale or sublease of goods by lease.*

(1) Subject to the provisions of G.S. 25-2A-303, a buyer or sublessee from the lessee of goods under an existing lease contract obtains, to the extent of the interest transferred, the leasehold interest in the goods that the lessee had or had power to transfer, and except as provided in subsection (2) of this section and G.S. 25-2A-511(4), takes subject to the existing lease contract. A lessee with a voidable leasehold interest has power to transfer a good leasehold interest to a good faith buyer for value or a good faith sublessee for value, but only to the extent set forth in the preceding sentence. When goods have been delivered under a transaction of lease, the lessee has that power even though:

(a) the lessor was deceived as to the identity of the lessee;

(b) the delivery was in exchange for a check which is later dishonored; or

(c) the delivery was procured through fraud punishable as larcenous under the criminal law.

(2) A buyer in the ordinary course of business or a sublessee in the ordinary course of business from a lessee who is a merchant dealing in goods of that kind to whom the goods were entrusted by the lessor obtains, to the extent of the interest transferred, all of the lessor's and lessee's rights to the goods, and takes free of the existing lease contract.

(3) A buyer or sublessee from the lessee of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of this State or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.

"*§ 25-2A-306. Priority of certain liens arising by operation of law.*

If a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a lease contract, a lien upon those goods in the possession of that person given by statute or rule of law for those materials or services takes priority over any interest of the lessor or lessee under the lease contract or this Article unless the lien is created by statute and the statute provides otherwise or unless the lien is created by rule of law and the rule of law provides otherwise.

"*§ 25-2A-307. Priority of liens arising by attachment or levy on, security interests in, and other claims to goods.*

(1) Except as otherwise provided in G.S. 25-2A-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in subsections (3) and (4) of this section and in G.S. 25-2A-306 and G.S. 25-2A-308, a creditor of a lessor takes subject to the lease contract unless:

(a) the creditor holds a lien that attached to the goods before the lease contract became enforceable;

(b) the creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or

(c) the creditor holds a security interest in the goods which was perfected (G.S. 25-9-303) before the lease contract became enforceable.

(3) A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (G.S. 25-9-303) and the lessee knows of its existence.

(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than 45 days after the lease contract becomes enforceable, whichever first occurs, unless the future

advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

"§ 25-2A-308. *Special rights of creditors.*

(1) A creditor of a lessor in possession of goods subject to a lease contract may treat the lease contract as void if as against the creditor retention of possession by the lessor is fraudulent under any statute or rule of law, but retention of possession in good faith and current course of trade by the lessor for a commercially reasonable time after the lease contract becomes enforceable is not fraudulent.

(2) Nothing in this Article impairs the rights of creditors of a lessor if the lease contract (a) becomes enforceable, not in current course of trade but in satisfaction of or as security for a preexisting claim for money, security, or the like, and (b) is made under circumstances which under any statute or rule of law apart from this Article would constitute the transaction a fraudulent transfer or voidable preference.

(3) A creditor of a seller may treat a sale or an identification of goods to a contract for sale as void if as against the creditor retention of possession by the seller is fraudulent under any statute or rule of law, but retention of possession of the goods pursuant to a lease contract entered into by the seller as lessee and the buyer as lessor in connection with the sale or identification of the goods is not fraudulent if the buyer bought for value and in good faith.

"§ 25-2A-309. *Lessor's and lessee's rights when goods become fixtures.*

(1) In this section:

(a) goods are 'fixtures' when they become so related to particular real estate that an interest in them arises under real estate law;

(b) a 'fixture filing' is the filing, in the office where a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of G.S. 25-9-402(5);

(c) a lease is a 'purchase money lease' unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

(d) a mortgage is a 'construction mortgage' to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

(e) 'encumbrance' includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(2) Under this Article a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under

this Article of ordinary building materials incorporated into an improvement on land.

(3) This Article does not prevent creation of a lease of fixtures pursuant to real estate law.

(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:

(a) the lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within 10 days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate; or

(b) the interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of real estate.

(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:

(a) the fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures, the lease contract is enforceable; or

(b) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or

(c) the encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

(d) the lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(6) Notwithstanding subsection (4)(a) of this section but otherwise subject to subsections (4) and (5) of this section, the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate

under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(8) If the interest of a lessor of fixtures, including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may (i) on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and this Article, or (ii) if necessary to enforce other rights and remedies of the lessor or lessee under this Article, remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of the Article on Secured Transactions (Article 9).

"*§ 25-2A-310. Lessor's and lessee's rights when goods become accessions.*

(1) Goods are 'accessions' when they are installed in or affixed to other goods.

(2) The interest of a lessor or a lessee under a lease contract entered into before the goods became accessions is superior to all interests in the whole except as stated in subsection (4) of this section.

(3) The interest of a lessor or a lessee under a lease contract entered into at the time or after the goods became accessions is superior to all subsequently acquired interests in the whole except as stated in subsection (4) of this section but is subordinate to interests in the whole existing at the time the lease contract was made unless the holders of such interests in the whole have in writing consented to the lease or disclaimed an interest in the goods as part of the whole.

(4) The interest of a lessor or a lessee under a lease contract described in subsection (2) or (3) of this section is subordinate to the interest of:

(a) a buyer in the ordinary course of business or a lessee in the ordinary course of business of any interest in the whole acquired after the goods became accessions; or

(b) a creditor with a security interest in the whole perfected before the lease contract was made to the extent that the creditor makes subsequent advances without knowledge of the lease contract.

(5) When under subsections (2) or (3) and (4) of this section, a lessor or a lessee of accessions holds an interest that is superior to all interests in the whole, the lessor or the lessee may:

(a) on default, expiration, termination, or cancellation of the lease contract by the other party but subject to the provisions of the lease contract and this Article; or

(b) if necessary to enforce his other rights and remedies under this Article, remove the goods from the whole, free and clear of all interests in the whole, but he must reimburse any holder of an interest in the whole who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

"PART 4.
"PERFORMANCE OF LEASE CONTRACT:
REPUDIATED, SUBSTITUTED,
AND EXCUSED.

"§ 25-2A-401. Insecurity: adequate assurance of performance.

(1) A lease contract imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired.

(2) If reasonable grounds for insecurity arise with respect to the performance of either party, the insecure party may demand in writing adequate assurance of due performance. Until the insecure party receives that assurance, if commercially reasonable, the insecure party may suspend any performance for which he has not already received the agreed return.

(3) A repudiation of the lease contract occurs if assurance of due performance adequate under the circumstances of the particular case is not provided to the insecure party within a reasonable time, not to exceed 30 days after receipt of a demand by the other party.

(4) Between merchants, the reasonableness of grounds for insecurity and the adequacy of any assurance offered must be determined according to commercial standards.

(5) Acceptance of any nonconforming delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

"§ 25-2A-402. *Anticipatory repudiation.*

If either party repudiates a lease contract with respect to a performance not yet due under the lease contract, the loss of which performance will substantially impair the value of the lease contract to the other, the aggrieved party may:

(a) for a commercially reasonable time, await retraction of repudiation and performance by the repudiating party;

(b) make demand pursuant to G.S. 25-2A-401 and await assurance of future performance adequate under the circumstances of the particular case; or

(c) resort to any right or remedy upon default under the lease contract or this Article, even though the aggrieved party has notified the repudiating party that the aggrieved party would await the repudiating party's performance and assurance and has urged retraction. In addition, whether or not the aggrieved party is pursuing one of the foregoing remedies, the aggrieved party may suspend performance or, if the aggrieved party is the lessor, proceed in accordance with the provisions of this Article on the lessor's right to identify goods to the lease contract notwithstanding default or to salvage unfinished goods (G.S. 25-2A-524).

"§ 25-2A-403. *Retraction of anticipatory repudiation.*

(1) Until the repudiating party's next performance is due, the repudiating party can retract the repudiation unless, since the repudiation, the aggrieved party has cancelled the lease contract or materially changed the aggrieved party's position or otherwise indicated that the aggrieved party considers the repudiation final.

(2) Retraction may be by any method that clearly indicates to the aggrieved party that the repudiating party intends to perform under the lease contract and includes any assurance demanded under G.S. 25-2A-401.

(3) Retraction reinstates a repudiating party's rights under a lease contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation.

"§ 25-2A-404. *Substituted performance.*

(1) If without fault of the lessee, the lessor and the supplier, the agreed berthing, loading, or unloading facilities fail, or the agreed type of carrier becomes unavailable or the agreed manner of delivery otherwise becomes commercially impracticable, but a commercially

reasonable substitute is available, the substitute performance shall be tendered and accepted.

(2) If the agreed means or manner of payment fails because of domestic or foreign governmental regulation:

(a) the lessor may withhold or stop delivery or cause the supplier to withhold or stop delivery unless the lessee provides a means or manner of payment that is commercially a substantial equivalent; and

(b) if delivery has already been taken, payment by the means or in the manner provided by the regulation discharges the lessee's obligation unless the regulation is discriminatory, oppressive, or predatory.

"§ 25-2A-405. *Excused performance.*

Subject to G.S 25-2A-404 on substituted performance, the following rules apply:

(a) delay in delivery or nondelivery in whole or in part by a lessor or a supplier who complies with paragraphs (b) and (c) is not a default under the lease contract if performance as agreed has been made impracticable by the occurrence of a contingency, the nonoccurrence of which was a basic assumption on which the lease contract was made, or by compliance in good faith with any applicable foreign or domestic governmental regulation or order, whether or not the regulation or order later proves to be invalid.

(b) if the causes mentioned in paragraph (a) affect only part of the lessor's or the supplier's capacity to perform, he shall allocate production and deliveries among his customers but at his option may include regular customers not then under contract for sale or lease as well as his own requirements for further manufacture. He may so allocate in any manner that is fair and reasonable.

(c) the lessor seasonably shall notify the lessee and in the case of a finance lease the supplier seasonably shall notify the lessor and the lessee, if known, that there will be delay or nondelivery and, if allocation is required under paragraph (b), of the estimated quota thus made available for the lessee.

"§ 25-2A-406. *Procedure on excused performance.*

(1) If the lessee receives notification of a material or indefinite delay or an allocation justified under G.S. 25-2A-405, the lessee may, by written notification to the lessor as to any goods involved, and with respect to all of the goods if under an installment lease contract, the value of the whole lease contract is substantially impaired (G.S. 25-2A-510):

(a) terminate the lease contract (G.S. 25-2A-505(2)); or

(b) except in a finance lease that is not a consumer lease, modify the lease contract by accepting the available quota in substitution, with

due allowance from the rent payable for the balance of the lease term for the deficiency but without further right against the lessor.

(2) If, after receipt of a notification from the lessor under G.S. 25-2A-405, the lessee fails so to modify the lease agreement within a reasonable time not exceeding 30 days, the lease contract lapses with respect to any deliveries affected.

"*§ 25-2A-407. Irrevocable promises: finance leases.*

(1) In the case of a finance lease that is not a consumer lease, the lessee's promises under the lease contract become irrevocable and independent upon the lessee's acceptance of the goods.

(2) A promise that has become irrevocable and independent under subsection (1) of this section:

(a) is effective and enforceable between the parties, and by or against third parties including assignees of the parties; and

(b) is not subject to cancellation, termination, modification, repudiation, excuse, or substitution without the consent of the party to whom the promise runs.

(3) This section does not affect the validity under any other law of a covenant in any lease contract making the lessee's promises irrevocable and independent upon the lessee's acceptance of the goods.

"PART 5.

"DEFAULT

"A. In General.

"*§ 25-2A-501. Default: procedure.*

(1) Whether the lessor or the lessee is in default under a lease contract is determined by the lease agreement and this Article.

(2) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement has rights and remedies as provided in this Article and, except as limited by this Article, as provided in the lease agreement.

(3) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract by self-help or any available judicial procedure or nonjudicial procedure, including administrative proceeding, arbitration, or the like, in accordance with this Article.

(4) Except as otherwise provided in G.S. 25-1-106(1) or this Article or the lease agreement, the rights and remedies referred to in subsections (2) and (3) of this section are cumulative.

(5) If the lease agreement covers both real property and goods, the party seeking enforcement may proceed under this Part as to the goods, or under other applicable law as to both the real property and the goods in accordance with that party's rights and remedies in respect of the real property, in which case this Part does not apply.

"*§ 25-2A-502. Notice after default.*

Except as otherwise provided in this Article or the lease agreement, the lessor or lessee in default under the lease contract is not entitled to notice of default or notice of enforcement from the other party to the lease agreement.

"*§ 25-2A-503. Modification or impairment of rights and remedies.*

(1) Except as otherwise provided in this Article, the lease agreement may include rights and remedies for default in addition to or in substitution for those provided in this Article and may limit or alter the measure of damages recoverable under this Article.

(2) Resort to a remedy provided under this Article or in the lease agreement is optional unless the remedy is expressly agreed to be exclusive. If circumstances cause an exclusive or limited remedy to fail of its essential purpose, or provision for an exclusive remedy is unconscionable, remedy may be had as provided in this Article.

(3) Consequential damages may be liquidated under G.S. 25-2A-504, or may otherwise be limited, altered, or excluded unless the limitation, alteration, or exclusion is unconscionable. Limitation, alteration, or exclusion of consequential damages for injury to the person in the case of consumer goods is *prima facie* unconscionable but limitation, alteration, or exclusion of damages where the loss is commercial is not *prima facie* unconscionable.

(4) Rights and remedies on default by the lessor or the lessee with respect to any obligation or promise collateral or ancillary to the lease contract are not impaired by this Article.

"*§ 25-2A-504. Liquidation of damages.*

(1) Damages payable by either party for default, or any other act or omission, including indemnity for loss or diminution of anticipated tax benefits or loss or damage to lessor's residual interest, may be liquidated in the lease agreement but only at an amount or by a formula that is reasonable in light of the then-anticipated harm caused by the default or other act or omission.

(2) If the lease agreement provides for liquidation of damages, and such provision does not comply with subsection (1) of this section, or such provision is an exclusive or limited remedy that circumstances cause to fail of its essential purpose, remedy may be had as provided in this Article.

(3) If the lessor justifiably withholds or stops delivery of goods because of the lessee's default or insolvency (G.S. 25-2A-525 or G.S. 25-2A-526), the lessee is entitled to restitution of any amount by which the sum of his payments exceeds:

(a) the amount to which the lessor is entitled by virtue of terms liquidating the lessor's damages in accordance with subsection (1) of this section; or

(b) in the absence of those terms, twenty percent (20%) of the then-present value of the total rent the lessee was obligated to pay for the balance of the lease term, or, in the case of a consumer lease, the lesser of such amount or five hundred dollars ($500.00).

(4) A lessee's right to restitution under subsection (3) of this section is subject to offset to the extent the lessor establishes:

(a) a right to recover damages under the provisions of this Article other than subsection (1) of this section; and

(b) the amount or value of any benefits received by the lessee directly or indirectly by reason of the lease contract.

"§ 25-2A-505. *Cancellation and termination and effect of cancellation, termination, rescission, or fraud on rights and remedies.*

(1) On cancellation of the lease contract, all obligations that are still executory on both sides are discharged, but any right based on prior default or performance survives, and the cancelling party also retains any remedy for default of the whole lease contract or any unperformed balance.

(2) On termination of the lease contract, all obligations that are still executory on both sides are discharged, but any right based on prior default or performance survives.

(3) Unless the contrary intention clearly appears, expressions of 'cancellation', 'rescission', or the like of the lease contract may not be construed as a renunciation or discharge of any claim in damages for an antecedent default.

(4) Rights and remedies for material misrepresentation or fraud include all rights and remedies available under this Article for default.

(5) Neither rescission nor a claim for rescission of the lease contract nor rejection or return of the goods may bar or be deemed inconsistent with a claim for damages or other right or remedy.

"§ 25-2A-506. *Statute of limitations.*

(1) An action for default under a lease contract, including breach of warranty or indemnity, must be commenced within four years after the cause of action accrued. By the original lease contract the parties may reduce the period of limitation to not less than one year.

(2) A cause of action for default accrues when the act or omission on which the default or breach of warranty is based is or should have been discovered by the aggrieved party, or when the default occurs, whichever is later. A cause of action for indemnity accrues when the act or omission on which the claim for indemnity is based is or should have been discovered by the indemnified party, whichever is later.

(3) If an action commenced within the time limited by subsection (1) of this section is so terminated as to leave available a remedy by another action for the same default or breach of warranty or indemnity, the other action may be commenced after the expiration of

the time limited and within six months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

(4) This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action that have accrued before this Article becomes effective.

"§ *25-2A-507. Proof of market rent: time and place.*

(1) Damages based on market rent (G.S. 25-2A-519 or G.S. 25-2A-528) are determined according to the rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times specified in G.S. 25-2A-519 and G.S. 25-2A-528.

(2) If evidence of rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times or places described in this Article is not readily available, the rent prevailing within any reasonable time before or after the time described or at any other place or for a different lease term which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the difference, including the cost of transporting the goods to or from the other place.

(3) Evidence of a relevant rent prevailing at a time or place or for a lease term other than the one described in this Article offered by one party is not admissible unless and until he has given the other party notice the court finds sufficient to prevent unfair surprise.

(4) If the prevailing rent or value of any goods regularly leased in any established market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of that market are admissible in evidence. The circumstances of the preparation of the report may be shown to affect its weight but not its admissibility.

"B. Default by lessor.

"§ *25-2A-508. Lessee's remedies.*

(1) If a lessor fails to deliver the goods in conformity to the lease contract (G.S. 25-2A-509) or repudiates the lease contract (G.S. 25-2A-402), or a lessee rightfully rejects the goods (G.S. 25-2A-509) or justifiably revokes acceptance of the goods (G.S. 25-2A-517), then with respect to any goods involved, and with respect to all of the goods if under an installment lease contract, the value of the whole lease contract is substantially impaired (G.S. 25-2A-510), the lessor is in default under the lease contract, and the lessee may:

(a) cancel the lease contract (G.S. 25-2A-505(1));

(b) recover so much of the rent and security as has been paid and is just under the circumstances;

(c) cover and recover damages as to all goods affected whether or not they have been identified to the lease contract (G.S. 25-2A-518 and G.S. 25-2A-520), or recover damages for nondelivery (G.S. 25-2A-519 and G.S. 25-2A-520);

(d) exercise any other rights or pursue any other remedies provided in the lease contract.

(2) If a lessor fails to deliver the goods in conformity to the lease contract or repudiates the lease contract, the lessee may also:

(a) if the goods have been identified, recover them (G.S. 25-2A-522); or

(b) in a proper case, obtain specific performance or replevy the goods (G.S. 25-2A-521).

(3) If a lessor is otherwise in default under a lease contract, the lessee may exercise the rights and pursue the remedies provided in the lease contract, which may include a right to cancel the lease, and in G.S. 25-2A-519(3).

(4) If a lessor has breached a warranty, whether express or implied, the lessee may recover damages (G.S. 25-2A-519(4)).

(5) On rightful rejection or justifiable revocation of acceptance, a lessee has a security interest in goods in the lessee's possession or control for any rent and security that has been paid and any expenses reasonably incurred in their inspection, receipt, transportation, and care and custody and may hold those goods and dispose of them in good faith and in a commercially reasonable manner, subject to G.S. 25-2A-527(5). A lessee who has rightfully rejected the goods, or justifiably revoked acceptance of the goods, shall account to the lessor for any excess over the amount of the lessee's security interest.

(6) Subject to the provisions of G.S. 25-2A-407, a lessee, on notifying the lessor of the lessee's intention to do so, may deduct all or any part of the damages resulting from any default under the lease contract from any part of the rent still due under the same lease contract.

"§ 25-2A-509. Lessee's rights on improper delivery; rightful rejection.

(1) Subject to the provisions of G.S. 25-2A-510 on default in installment lease contracts, if the goods or the tender or delivery fail in any respect to conform to the lease contract, the lessee may reject or accept the goods or accept any commercial unit or units and reject the rest of the goods.

(2) Rejection of goods is ineffective unless it is within a reasonable time after tender or delivery of the goods and the lessee seasonably notifies the lessor.

"§ 25-2A-510. Installment lease contracts; rejection and default.

(1) Under an installment lease contract a lessee may reject any delivery that is nonconforming if the nonconformity substantially impairs the value of that delivery and cannot be cured or the nonconformity is a defect in the required documents; but if the nonconformity does not fall within subsection (2) of this section and the lessor or the supplier gives adequate assurance of its cure, the lessee must accept that delivery.

(2) Whenever nonconformity or default with respect to one or more deliveries substantially impairs the value of the installment lease contract as a whole, there is a default with respect to the whole. But, the aggrieved party reinstates the installment lease contract as a whole if the aggrieved party accepts a nonconforming delivery without seasonably notifying of cancellation or brings an action with respect only to past deliveries or demands performance as to future deliveries.

"*§ 25-2A-511. Merchant lessee's duties as to rightfully rejected goods.*

(1) Subject to any security interest of a lessee (G.S. 25-2A-508(5)), if a lessor or a supplier has no agent or place of business at the market of rejection, a merchant lessee, after rejection of goods in his possession or control, shall follow any reasonable instructions received from the lessor or the supplier with respect to the goods. In the absence of those instructions, a merchant lessee shall make reasonable efforts to sell, lease, or otherwise dispose of the goods for the lessor's account if they threaten to decline in value speedily. Instructions are not reasonable if, on demand, indemnity for expenses is not forthcoming.

(2) If a merchant lessee (subsection (1) of this section) or any other lessee (G.S. 25-2A-512) disposes of goods, he is entitled to reimbursement either from the lessor or the supplier or out of the proceeds for reasonable expenses of caring for and disposing of the goods and, if the expenses include no disposition commission, to such commission as is usual in the trade, or if there is none, to a reasonable sum not exceeding ten percent (10%) of the gross proceeds.

(3) In complying with this section or G.S. 25-2A-512, the lessee is held only to good faith. Good faith conduct hereunder is neither acceptance or conversion nor the basis of an action for damages.

(4) A purchaser who purchases in good faith from a lessee pursuant to this section or G.S. 25-2A-512 takes the goods free of any rights of the lessor and the supplier even though the lessee fails to comply with one or more of the requirements of this Article.

"*§ 25-2A-512. Lessee's duties as to rightfully rejected goods.*

(1) Except as otherwise provided with respect to goods that threaten to decline in value speedily (G.S. 25-2A-511) and subject to any security interest of a lessee (G.S. 25-2A-508(5)):

(a) the lessee, after rejection of goods in the lessee's possession, shall hold them with reasonable care at the lessor's or the supplier's disposition for a reasonable time after the lessee's seasonable notification of rejection;

(b) if the lessor or the supplier gives no instructions within a reasonable time after notification of rejection, the lessee may store the rejected goods for the lessor's or the supplier's account or ship them to the lessor or the supplier or dispose of them for the lessor's or the supplier's account with reimbursement in the manner provided in G.S. 25-2A-511; but

(c) the lessee has no further obligations with regard to goods rightfully rejected.

(2) Action by the lessee pursuant to subsection (1) of this section is not acceptance or conversion.

"§ *25-2A-513. Cure by lessor of improper tender or delivery; replacement.*

(1) If any tender or delivery by the lessor or the supplier is rejected because nonconforming and the time for performance has not yet expired, the lessor or the supplier may seasonably notify the lessee of the lessor's or the supplier's intention to cure and may then make a conforming delivery within the time provided in the lease contract.

(2) If the lessee rejects a nonconforming tender that the lessor or the supplier had reasonable grounds to believe would be acceptable with or without money allowance, the lessor or the supplier may have a further reasonable time to substitute a conforming tender if he seasonably notifies the lessee.

"§ *25-2A-514. Waiver of lessee's objections.*

(1) In rejecting goods, a lessee's failure to state a particular defect that is ascertainable by reasonable inspection precludes the lessee from relying on the defect to justify rejection or to establish default:

(a) if, stated seasonably, the lessor or the supplier could have cured it (G.S. 25-2A-513); or

(b) between merchants if the lessor or the supplier after rejection has made a request in writing for a full and final written statement of all defects on which the lessee proposes to rely.

(2) A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent on the face of the documents.

"§ *25-2A-515. Acceptance of goods.*

(1) Acceptance of goods occurs after the lessee has had a reasonable opportunity to inspect the goods and:

(a) the lessee signifies or acts with respect to the goods in a manner that signifies to the lessor or the supplier that the goods are

conforming or that the lessee will take or retain them in spite of their nonconformity; or

(b) the lessee fails to make an effective rejection of the goods (G.S. 25-2A-509(2)).

(2) Acceptance of a part of any commercial unit is acceptance of that entire unit.

"*§ 25-2A-516. Effect of acceptance of goods; notice of default; burden of establishing default after acceptance; notice of claim or litigation to person answerable over.*

(1) A lessee must pay rent for any goods accepted in accordance with the lease contract, with due allowance for goods rightfully rejected or not delivered.

(2) A lessee's acceptance of goods precludes rejection of the goods accepted. In the case of a finance lease, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it. In any other case, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it unless the acceptance was on the reasonable assumption that the nonconformity would be seasonably cured. Acceptance does not of itself impair any other remedy provided by this Article or the lease agreement for nonconformity.

(3) If a tender has been accepted:

(a) within a reasonable time after the lessee discovers or should have discovered any default, the lessee shall notify the lessor and the supplier, if any, or be barred from any remedy against the party not notified;

(b) except in the case of a consumer lease, within a reasonable time after the lessee receives notice of litigation for infringement or the like (G.S. 25-2A-211) the lessee shall notify the lessor or be barred from any remedy over for liability established by the litigation; and

(c) the burden is on the lessee to establish any default.

(4) If a lessee is sued for breach of a warranty or other obligation for which a lessor or a supplier is answerable over the following apply:

(a) the lessee may give the lessor or the supplier, or both, written notice of the litigation. If the notice states that the person notified may come in and defend and that if the person notified does not do so, that person will be bound in any action against that person by the lessee by any determination of fact common to the two litigations, then, unless the person notified after seasonable receipt of the notice does come in and defend, that person is so bound.

(b) the lessor or the supplier may demand in writing that the lessee turn over control of the litigation, including settlement, if the claim is one for infringement or the like (G.S. 25-2A-211) or else be barred

from any remedy over. If the demand states that the lessor or the supplier agrees to bear all expense and to satisfy any adverse judgment, then, unless the lessee after seasonable receipt of the demand does turn over control, the lessee is so barred.

(5) Subsections (3) and (4) of this section apply to any obligation of a lessee to hold the lessor or the supplier harmless against infringement or the like (G.S. 25-2A-211).

"§ *25-2A-517. Revocation of acceptance of goods.*

(1) A lessee may revoke acceptance of a lot or commercial unit whose nonconformity substantially impairs its value to the lessee if the lessee has accepted it:

(a) except in the case of a finance lease, on the reasonable assumption that its nonconformity would be cured and it has not been seasonably cured; or

(b) without discovery of the nonconformity if the lessee's acceptance was reasonably induced either by the lessor's assurances or, except in the case of a finance lease, by the difficulty of discovery before acceptance.

(2) Except in the case of a finance lease that is not a consumer lease, a lessee may revoke acceptance of a lot or commercial unit if the lessor defaults under the lease contract and the default substantially impairs the value of that lot or commercial unit to the lessee.

(3) If the lease agreement so provides, the lessee may revoke acceptance of a lot or commercial unit because of other defaults by the lessor.

(4) Revocation of acceptance must occur within a reasonable time after the lessee discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by the nonconformity. Revocation is not effective until the lessee notifies the lessor.

(5) A lessee who so revokes has the same rights and duties with regard to the goods involved as if the lessee had rejected them.

"§ *25-2A-518. Cover; substitute goods.*

(1) After a default by a lessor under the lease contract of the type described in G.S. 25-2A-508(1), or, if agreed, after other default by the lessor, the lessee may cover by making any purchase or lease of or contract to purchase or lease goods in substitution for those due from the lessor.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (G.S. 25-2A-504) or otherwise determined pursuant to agreement of the parties (G.S. 25-1-102(3) and G.S. 25-2A-503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the

lessee may recover from the lessor as damages (i) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (ii) any incidental or consequential damages, less expenses saved in consequence of the lessor's default.

(3) If a lessee's cover is by lease agreement that for any reason does not qualify for treatment under subsection (2) of this section, or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and G.S. 25-2A-519 governs.

"§ 25-2A-519. Lessee's damages for nondelivery, repudiation, default, and breach of warranty in regard to accepted goods.

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (G.S. 25-2A-504) or otherwise determined pursuant to agreement of the parties (G.S. 25-1-102(3) and G.S. 25-2A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under G.S. 25-2A-518(2), or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(2) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

(3) Except as otherwise agreed, if the lessee has accepted goods and given notification (G.S. 25-2A-516(3)), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(4) Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount,

together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.

"§ 25-2A-520. *Lessee's incidental and consequential damages.*

(1) Incidental damages resulting from a lessor's default include expenses reasonably incurred in inspection, receipt, transportation, and care and custody of goods rightfully rejected or goods the acceptance of which is justifiably revoked, any commercially reasonable charges, expenses or commissions in connection with effecting cover, and any other reasonable expense incident to the default.

(2) Consequential damages resulting from a lessor's default include:

(a) any loss resulting from general or particular requirements and needs of which the lessor at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) injury to person or property proximately resulting from any breach of warranty.

"§ 25-2A-521. *Lessee's right to specific performance or replevin.*

(1) Specific performance may be decreed if the goods are unique or in other proper circumstances.

(2) A decree for specific performance may include any terms and conditions as to payment of the rent, damages, or other relief that the court deems just.

(3) A lessee has a right of replevin, detinue, sequestration, claim and delivery, or the like for goods identified to the lease contract if after reasonable effort the lessee is unable to effect recovery for those goods or the circumstances reasonably indicate that the effort will be unavailing.

"§ 25-2A-522. *Lessee's right to goods on lessor's insolvency.*

(1) Subject to subsection (2) of this section and even though the goods have not been shipped, a lessee who has paid a part or all of the rent and security for goods identified to a lease contract (G.S. 25-2A-217) on making and keeping good a tender of any unpaid portion of the rent and security due under the lease contract may recover the goods identified from the lessor if the lessor becomes insolvent within 10 days after receipt of the first installment of rent and security.

(2) A lessee acquires the right to recover goods identified to a lease contract only if they conform to the lease contract.

"C. Default by Lessee.

"§ 25-2A-523. *Lessor's remedies.*

(1) If a lessee wrongfully rejects or revokes acceptance of goods or fails to make a payment when due or repudiates with respect to a part or the whole, then, with respect to any goods involved, and with

respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (G.S. 25-2A-510), the lessee is in default under the lease contract and the lessor may:

(a) cancel the lease contract (G.S. 25-2A-505(1));

(b) proceed respecting goods not identified to the lease contract (G.S. 25-2A-524);

(c) withhold delivery of the goods and take possession of goods previously delivered (G.S. 25-2A-525);

(d) stop delivery of the goods by any bailee (G.S. 25-2A-526);

(e) dispose of the goods and recover damages (G.S. 25-2A-527), or retain the goods and recover damages (G.S. 25-2A-528), or in a proper case recover rent (G.S. 25-2A-529);

(f) exercise any other rights or pursue any other remedies provided in the lease contract.

(2) If a lessor does not fully exercise a right or obtain a remedy to which the lessor is entitled under subsection (1) of this section, the lessor may recover the loss resulting in the ordinary course of events from the lessee's default as determined in any reasonable manner, together with incidental damages, less expenses saved in consequence of the lessee's default.

(3) If a lessee is otherwise in default under a lease contract, the lessor may exercise the rights and pursue the remedies provided in the lease contract, which may include a right to cancel the lease. In addition, unless otherwise provided in the lease contract:

(a) if the default substantially impairs the value of the lease contract to the lessor, the lessor may exercise the rights and pursue the remedies provided in subsections (1) or (2) of this section; or

(b) if the default does not substantially impair the value of the lease contract to the lessor, the lessor may recover as provided in subsection (2) of this section.

"§ 25-2A-524. *Lessor's right to identify goods to lease contract.*

(1) After default by the lessee under the lease contract of the type described in G.S. 25-2A-523(1) or G.S. 25-2A-523(3)(a) or, if agreed, after other default by the lessee, the lessor may:

(a) identify to the lease contract conforming goods not already identified if at the time the lessor learned of the default they were in the lessor's or the supplier's possession or control; and

(b) dispose of goods (G.S. 25-2A-527(1)) that demonstrably have been intended for the particular lease contract even though those goods are unfinished.

(2) If the goods are unfinished, in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization, an aggrieved lessor or the supplier may either complete

manufacture and wholly identify the goods to the lease contract or cease manufacture and lease, sell, or otherwise dispose of the goods for scrap or salvage value or proceed in any other reasonable manner.

"§ 25-2A-525. *Lessor's right to possession of goods.*

(1) If a lessor discovers the lessee to be insolvent, the lessor may refuse to deliver the goods.

(2) After a default by the lessee under the lease contract of the type described in G.S. 25-2A-523(1) or G.S. 25-2A-523(3) (a) or, if agreed, after other default by the lessee, the lessor has the right to take possession of the goods. If the lease contract so provides, the lessor may require the lessee to assemble the goods and make them available to the lessor at a place to be designated by the lessor which is reasonably convenient to both parties. Without removal, the lessor may render unusable any goods employed in trade or business, and may dispose of goods on the lessee's premises (G.S. 25-2A-527).

(3) The lessor may proceed under subsection (2) of this section without judicial process if it can be done without breach of the peace or the lessor may proceed by action.

"§ 25-2A-526. *Lessor's stoppage of delivery in transit or otherwise.*

(1) A lessor may stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the lessee to be insolvent and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight if the lessee repudiates or fails to make a payment due before delivery, whether for rent, security, or otherwise under the lease contract, or for any other reason the lessor has a right to withhold or take possession of the goods.

(2) In pursuing its remedies under subsection (1) of this section, the lessor may stop delivery until

(a) receipt of the goods by the lessee;

(b) acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or

(c) such an acknowledgment to the lessee by a carrier via reshipment or as warehouseman.

(3)(a) To stop deliver, a lessor shall so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) after notification, the bailee shall hold and deliver the goods according to the directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.

(c) a carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

"§ 25-2A-527. *Lessor's rights to dispose of goods.*

(1) After a default by a lessee under the lease contract of the type described in G.S. 25-2A-523(1) or G.S. 25-2A-523(3)(a) or after the

lessor refuses to deliver or takes possession of goods (G.S. 25-2A-525 or G.S. 25-2A-526), or, if agreed, after other default by a lessee, the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (G.S. 25-2A-504) or otherwise determined pursuant to agreement of the parties (G.S. 25-1-102(3) and G.S. 25-2A-503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (i) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (ii) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (iii) any incidental damages allowed under G.S. 25-2A-530, less expenses saved in consequence of the lessee's default.

(3) If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subsection (2) of this section, or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and G.S. 25-2A-528 governs.

(4) A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one or more of the requirements of this Article.

(5) The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (G.S. 25-2A-508(5)).

"§ 25-2A-528. *Lessor's damages for nonacceptance, failure to pay, repudiation, or other default.*

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (G.S. 25-2A-504) or otherwise determined pursuant to agreement of the parties (G.S. 25-1-102(3) and G.S. 25-2A-503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under G.S. 25-2A-527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in G.S. 25-2A-523(1) or G.S. 25-2A-523(3)(a), or if agreed, for other default of the lessee, (i)

accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (ii) the present value as of the date determined under clause (i) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (iii) any incidental damages allowed under G.S. 25-2A-530, less expenses saved in consequence of the lessee's default.

(2) If the measure of damages provided in subsection (1) of this section, is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any incidental damages allowed under G.S. 25-2A-530, due allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.

"*§ 25-2A-529. Lessor's action for the rent.*

(1) After default by the lessee under the lease contract of the type described in G.S. 25-2A-523(1) or G.S. 25-2A-523(3)(a) or, if agreed, after other default by the lessee, if the lessor complies with subsection (2) of this section, the lessor may recover from the lessee as damages:

(a) for goods accepted by the lessee and not repossessed by or tendered to the lessor, and for conforming goods lost or damaged within a commercially reasonable time after risk of loss passes to the lessee (G.S. 25-2A-219), (i) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (ii) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (iii) any incidental damages allowed under G.S. 25-2A-530, less expenses saved in consequence of the lessee's default; and

(b) for goods identified to the lease contract if the lessor is unable after reasonable effort to dispose of them at a reasonable price or the circumstances reasonably indicate that effort will be unavailing, (i) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (ii) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (iii) any incidental damages allowed under G.S. 25-2A-530, less expenses saved in consequence of the lessee's default.

(2) Except as provided in subsection (3) of this section, the lessor shall hold for the lessee for the remaining lease term of the lease

agreement any goods that have been identified to the lease contract and are in the lessor's control.

(3) The lessor may dispose of the goods at any time before collection of the judgment for damages obtained pursuant to subsection (1) of this section. If the disposition is before the end of the remaining lease term of the lease agreement, the lessor's recovery against the lessee for damages is governed by G.S. 25-2A-527 or G.S. 25-2A-528, and the lessor will cause an appropriate credit to be provided against a judgment for damages to the extent that the amount of the judgment exceeds the recovery available pursuant to G.S. 25-2A-527 or G.S. 25-2A-528.

(4) Payment of the judgment for damages obtained pursuant to subsection (1) of this section, entitles the lessee to the use and possession of the goods not then disposed of for the remaining lease term of and in accordance with the lease agreement.

(5) After a default by the lessee under the lease contract of the type described in G.S. 25-2A-523(1) or G.S. 25-2A-523(3)(a) or, if agreed, after other default by the lessee, a lessor who is held not entitled to rent under this section must nevertheless be awarded damages for nonacceptance under G.S. 25-2A-527 or G.S. 25-2A-528.

"§ 25-2A-530. *Lessor's incidental damages.*

Incidental damages to an aggrieved lessor include any commercially reasonable charges, expenses, or commissions incurred in stopping delivery, in the transportation, care, and custody of goods after the lessee's default, in connection with return or disposition of the goods, or otherwise resulting from the default.

"§ 25-2A-531. *Standing to sue third parties for injury to goods.*

(1) If a third party so deals with goods that have been identified to a lease contract as to cause actionable injury to a party to the lease contract then (a) the lessor has a right of action against the third party, and (b) the lessee also has a right of action against the third party if the lessee:

(i) has a security interest in the goods;

(ii) has an insurable interest in the goods; or

(iii) bears the risk of loss under the lease contract or has since the injury assumed that risk as against the lessor and the goods have been converted or destroyed.

(2) If at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the lease contract and there is no arrangement between them for disposition of the recovery, his suit or settlement, subject to his own interest, is as a fiduciary for the other party to the lease contract.

(3) Either party, with the consent of the other, may sue for the benefit of whom it may concern.

"*§ 25-2A-532. Lessor's rights to residual interest.*

In addition to any other recovery permitted by this Article or other law, the lessor may recover from the lessee an amount that will fully compensate the lessor for any loss of or damage to the lessor's residual interest in the goods caused by the default of the lessee."

Sec. 2. G.S. 25-1-201(37) reads as rewritten:

"(37) 'Security interest' means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (G.S. 25-2-401) is limited in effect to a reservation of a 'security interest'. The term also includes any interest of a buyer of accounts or chattel paper which is subject to ~~article 9.~~ Article 9 of this Chapter. The special property interest of a buyer of goods on identification of ~~such~~ those goods to a contract for sale under G.S. 25-2-401 is not a 'security interest,' but a buyer may also acquire a 'security interest' by complying with ~~article 9.~~ Article 9 of this Chapter. Unless a ~~lease or~~ consignment is intended as security, reservation of title thereunder is not a 'security interest' but a consignment is in any event subject to the provisions on consignment sales (G.S. 25-2-326). ~~Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.~~

(a) Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if:

(i) The original term of the lease is equal to or greater than the remaining economic life of the goods, or

(ii) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods, or

(iii) The lessee has an option to renew the lease for the remaining economic life of the goods

for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(iv) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(b) A transaction does not create a security interest merely because it provides that:

(i) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(ii) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(iii) The lessee has an option to renew the lease or to become the owner of the goods,

(iv) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(v) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(c) For purposes of this subsection (37):

(i) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less

than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(ii) 'Reasonably predictable' and 'remaining economic life of the goods' are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(iii) 'Present value' means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into."

Sec. 3. G.S. 25-9-113 reads as rewritten:

"*§ 25-9-113. Security interests arising under article on ~~sales.~~ sales or under article on leases.*

A security interest arising solely under the article on sales (~~article~~ Article 2) or the article on leases (Article 2A) is subject to the provisions of this article except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods

(a) no security agreement is necessary to make the security interest enforceable; and

(b) no filing is required to perfect the security interest; and

(c) the rights of the secured party on default by the debtor are governed (i) by the article on sales ~~(article 2),~~ (Article 2) in the case of a security interest arising solely under that Article, or (ii) by the article on leases (Article 2A) in the case of a security interest arising solely under that Article."

Sec. 4. The revisor of statutes shall cause to be printed along with this act all relevant portions of the official comments to the Uniform Commercial Code, Article 2A, as the revisor deems appropriate.

Sec. 5. Chapter 22B of the General Statutes is amended by adding a new Article 2 to read:

"ARTICLE 2.

"Jury Trial Waivers Unenforceable.

"*§ 22B-2. Contract provisions waiving jury trial unenforceable.*

Any provision in a contract requiring a party to the contract to waive his right to a jury trial is unconscionable as a matter of law and the provision shall be unenforceable."

Sec. 6. This act is effective October 1, 1993, and shall not apply to pending litigation.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 954 **CHAPTER 464**

AN ACT TO PERMIT THE DIRECT PAYMENT OF CERTIFIED SOCIAL WORKERS AND CERTAIN ADVANCED PRACTICE REGISTERED NURSES UNDER HEALTH INSURANCE POLICIES AND PLANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-39-15(17) reads as rewritten:

"(17) 'Medical professional' means any person licensed or certified to provide health care services to natural persons, including but not limited to, a physician, dentist, nurse, chiropractor, optometrist, physical or occupational therapist, ~~psychiatric~~ certified clinical social worker, clinical dietitian, clinical psychologist, pharmacist, or speech therapist."

Sec. 2. G.S. 58-50-30, as amended by Chapter 347 of the 1993 Session Laws, reads as rewritten:

"*§ 58-50-30. Discrimination forbidden; right to choose services of optometrist, podiatrist, certified clinical social worker, dentist, chiropractor, or advanced practice registered nurse.*

(a) Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by Articles 50 through 55 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of such policy, or in any other manner whatsoever, is prohibited.

Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for payment of or reimbursement for any service which is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed practicing psychologist, or an advanced practice registered nurse, the insured or other persons entitled to benefits under such policy shall be entitled to payment of or reimbursement for such services, whether such services be performed by a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a

duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed practicing psychologist, or an advanced practice registered nurse, notwithstanding any provision contained in such policy. Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability which is within the scope of practice of a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed practicing psychologist, or an advanced practice registered nurse, the insured or other persons entitled to benefits under such policy shall be entitled to payment of or reimbursement for such disability whether such disability be certified by a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed practicing psychologist, or an advanced practice registered nurse, notwithstanding any provisions contained in such policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of such services notwithstanding any provision to the contrary in any other statute.

For the purposes of this section, a 'duly licensed practicing psychologist' shall be defined to only include a psychologist who is duly licensed or certified in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Providers in Psychology.

(b) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

(1) The service performed is within the nurse's lawful scope of practice;

(2) The policy currently provides benefits for identical services performed by other licensed health care providers;

(3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;

(4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and

(5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision.

For purposes of this section, an 'advanced practice registered nurse' means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

(c) For the purposes of this section, a 'duly certified clinical social worker' is a 'certified clinical social worker' as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes."

Sec. 3. (a) G.S. 135-40.7B(c) reads as rewritten:

"(c) Notwithstanding any other provisions of this Part, the following providers are authorized to provide necessary care and treatment for mental illness under this section: licensed psychiatrists and doctors of psychology licensed or certified in their states of practice, psychiatric nurses or social workers or psychological associates with a master's degree in psychology under the direct employment and supervision of a licensed ~~psychiatrist~~ physician or licensed or certified doctor of psychology, licensed psychiatric hospitals and licensed general hospitals providing psychiatric treatment programs and certified residential treatment facilities, community mental health centers, and partial hospitalization facilities."

(b) This section is effective January 1, 1993, and expires on September 30, 1993.

Sec. 3.1. G.S. 58-65-1 as rewritten by Chapter 347 of the 1993 Session Laws reads as rewritten:

"*§ 58-65-1. Regulation and definitions; application of other laws; profit and foreign corporations prohibited.*

(a) Any corporation heretofore or hereafter organized under the general corporation laws of the State of North Carolina for the purpose of maintaining and operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital care and/or medical and/or dental service may be provided in whole or in part by said corporation or by hospitals and/or physicians and/or dentists participating in such plan, or plans, shall be governed by this Article and Article 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of this State, heretofore enacted, unless specifically designated herein, and no laws hereafter enacted shall apply to them unless they be expressly designated therein.

The term 'hospital service plan' as used in this Article and Article 66 of this Chapter includes the contracting for certain fees for, or furnishing of, hospital care, laboratory facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and obstetrical equipment, accommodations and/or any and all other services authorized or permitted to be furnished by a hospital under the laws of

the State of North Carolina and approved by the North Carolina Hospital Association and/or the American Medical Association.

The term 'medical service plan' as used in this Article and Article 66 of this Chapter includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical and/or any other professional services authorized or permitted to be furnished by a duly licensed physician, except that in any plan in any policy of insurance governed by this Article and Article 66 of this Chapter that includes services which are within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a duly licensed practicing psychologist, an advanced practice registered nurse, a duly certified clinical social worker, and a duly licensed physician, then the insured or beneficiary shall have the right to choose the provider of the care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed practicing psychologist, an advanced practice registered nurse, a duly certified clinical social worker, or a duly licensed physician notwithstanding any provision to the contrary contained in such policy. The term 'medical services plan' also includes the contracting for the payment of fees toward, or furnishing of, professional medical services authorized or permitted to be furnished by a duly licensed provider of health services licensed under Chapter 90 of the General Statutes.

(b) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

(1) The service performed is within the nurse's lawful scope of practice;

(2) The policy currently provides benefits for identical services performed by other licensed health care providers;

(3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;

(4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and

(5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision.

(c) For purposes of this section, an 'advanced practice registered nurse' means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

For the purposes of this section, a 'duly certified clinical social worker' is a 'certified clinical social worker' as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

For the purposes of this section, a 'duly licensed practicing psychologist' shall be defined to only include a psychologist who is duly licensed or certified in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Providers in Psychology.

The term 'dental service plan' as used in this Article and Article 66 of this Chapter includes contracting for the payment of fees toward, or furnishing of dental and/or any other professional services authorized or permitted to be furnished by a duly licensed dentist.

The insured or beneficiary of every 'medical service plan' and of every 'dental service plan,' as those terms are used in this Article and Article 66 of this Chapter, or of any policy of insurance issued thereunder, that includes services which are within the scope of practice of both a duly licensed physician and a duly licensed dentist shall have the right to choose the provider of such care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed physician or a duly licensed dentist notwithstanding any provision to the contrary contained in any such plan or policy.

The term 'hospital service corporation' as used in this Article and Article 66 of this Chapter is intended to mean any nonprofit corporation operating a hospital and/or medical and/or dental service plan, as herein defined. Any corporation heretofore or hereafter organized and coming within the provisions of this Article and Article 66 of this Chapter, the certificate of incorporation of which authorizes the operation of either a hospital or medical and/or dental service plan, or any or all of them, may, with the approval of the Commissioner of Insurance, issue subscribers' contracts or certificates approved by the Commissioner of Insurance, for the payment of either hospital or medical and/or dental fees, or the furnishing of such services, or any or all of them, and may enter into contracts with hospitals for physicians and/or dentists, or any or all of them, for the furnishing of fees or services respectively under a hospital or medical and/or dental service plan, or any or all of them.

The term 'preferred provider' as used in this Article and Article 66 of this Chapter with respect to contracts, organizations, policies or otherwise means a health care service provider who has agreed to accept, from a corporation organized for the purposes authorized by this Article and Article 66 of this Chapter or other applicable law,

special reimbursement terms in exchange for providing services to beneficiaries of a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the extent prohibited either by G.S. 58-65-140 or by regulations promulgated by the Department of Insurance not inconsistent with this Article and Article 66 of this Chapter, the contractual terms and conditions for special reimbursement shall be those which the corporation and preferred provider find to be mutually agreeable.

(d) No foreign or alien hospital or medical and/or dental service corporation as herein defined shall be authorized to do business in this State."

Sec. 4. G.S. 135-40.7B(c) reads as rewritten:

"(c) Notwithstanding any other provisions of this Part, the following providers are authorized to provide necessary care and treatment for mental illness under this section:

(1) ~~licensed psychiatrists and doctors~~ Licensed psychiatrists;
(2) Licensed or certified doctors of ~~psychology~~ psychology;
(3) ~~licensed or certified in their states of practice,~~ Certified clinical social workers;
(4) ~~psychiatric nurses~~ Psychiatric nurses; ~~or~~
(5) Other social workers under the direct employment and supervision of a licensed psychiatrist or licensed doctor of psychology; ~~or~~
(6) ~~psychological~~ Psychological associates with a master's degree in psychology under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of ~~psychology,~~ psychology;
(7) ~~licensed~~ Licensed psychiatric hospitals and licensed general hospitals providing psychiatric treatment ~~programs~~ programs; and
(8) ~~certified~~ Certified residential treatment facilities, community mental health centers, and partial hospitalization facilities."

Sec. 5. G.S. 135-40.7A(c) reads as rewritten:

"(c) Notwithstanding any other provision of this Part, provisions for benefits for necessary care and treatment of chemical dependency under this Part shall provide for benefit payments for the following providers of necessary care and treatment of chemical dependency:

(1) The following units of a general hospital licensed under Article 5 of General Statutes Chapter 131E:
    a. Chemical dependency units in facilities licensed after October 1, 1984;
    b. Medical units;
    c. Psychiatric units; and

(2) The following facilities licensed after July 1, 1984, under Article 2 of General Statutes Chapter 122C:
   a. Chemical dependency units in psychiatric hospitals;
   b. Chemical dependency hospitals;
   c. Residential chemical dependency treatment facilities;
   d. Social setting detoxification facilities or programs;
   e. Medical detoxification facilities or programs; and

(3) Duly licensed physicians and duly licensed practicing ~~psychologists~~ psychologists, certified clinical social workers, certified clinical specialists in psychiatric and mental health nursing, and certified professionals working under the direct supervision of such physicians or psychologists in facilities described in (1) and (2) above and in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 2 of General Statutes Chapter 122C.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency."

Sec. 6. G.S. 135-40.6 is amended by adding the following new subdivision:

"(10) Coverage for Services of Advanced Practice Registered Nurses. -- Notwithstanding any other provision of this section or the Plan, benefits shall be payable for services performed by an advanced practice registered nurse subject to the following limitations:
   a. The service performed is within the nurse's lawful scope of practice;
   b. The Plan provides benefits for identical services performed by other licensed health care providers;
   c. The service is not performed while the nurse is a regular employee in an office of a licensed physician;
   d. The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and
   e. Nothing in this subdivision is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this subdivision.

For purposes of this subdivision, an 'advanced practice registered nurse' means only a registered nurse who is

duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or a nurse midwife."

Sec. 7. G.S. 135-40.7(5) reads as rewritten:

"(5) Charges for any care, treatment, services or supplies other than those which are certified by a physician who is attending the individual as being required for the medically necessary treatment of the injury or disease. This subdivision shall not be construed, however, to require certification by an attending physician for a service provided by an advanced practice registered nurse acting within the nurse's lawful scope of practice, subject to the limitations of G.S. 135-40.6(10)."

Sec. 8. Sections 1, 2, 3.1, 4, 5, 6, 7, and 8 of this act become effective October 1, 1993. Section 3 of this act becomes effective and expires as provided in subsection (b) of that section. Sections 2 and 3.1 of this act expire on June 30, 1999.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 102 **CHAPTER 465**

AN ACT TO REQUIRE THE LOCAL BOARDS OF EDUCATION TO USE THE ENERGY GUIDELINES FOR SCHOOL DESIGN AND CONSTRUCTION AND TO REQUIRE ENERGY-USE GOALS AND STANDARDS IN ORDER TO ASSURE THE CONSTRUCTION OF ENERGY EFFICIENT NEW SCHOOLS AND SCHOOL RENOVATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-521(c) reads as rewritten:

"(c) The building of all new schoolhouses and the repairing of all old schoolhouses shall be under the control and direction of, and by contract with, the board of education in which such building and repairing is done. Boards of education shall not invest any money in any new building that is not built in accordance with plans approved by the State Superintendent to structural and functional soundness, safety and sanitation, nor contract for more money than is made available for its erection. However, this subsection shall not be construed so as to prevent boards of education from investing any money in buildings that are being constructed pursuant to a continuing contract of construction as provided for in G.S. 115C-441(c1). All contracts for buildings shall be in writing and all buildings shall be inspected, received, and approved by the local superintendent and the

architect before full payment is made therefor: Provided, that this subsection shall not prohibit boards of education from repairing and altering buildings with the help of janitors and other regular employees of said board.

In the design and construction of new school buildings and in the renovation of existing school buildings that are required to be designed by an architect or engineer under G.S. 133-1.1, the local board of education shall participate in the planning and review process of the Energy Guidelines for School Design and Construction that are developed and maintained by the Department of Public Instruction and shall adopt local energy-use goals for building design and operation that take into account local conditions in an effort to reduce the impact of operation costs on local and State budgets. In the design and construction of new school facilities and in the repair and renovation of existing school facilities, the local board of education shall consider the placement and design of windows to use the climate of North Carolina for both light and ventilation in case of power shortages. A local board shall also consider the installation of solar energy systems in the school facilities whenever practicable.

In the case of any school buildings erected, repaired, or equipped with any money loaned or granted by the State to any local school administrative unit, the State Board of Education, under such rules as it may deem advisable, may retain any amount not to exceed fifteen percent (15%) of said loan or grant, until such completed buildings, erected or repaired, in whole or in part, from such loan or grant funds, shall have been approved by a designated agent of the State Board of Education.

Upon such approval by the State Board of Education, the State Treasurer is authorized to pay the balance of the loan or grant to the treasurer of the local school administrative unit for which said loan or grant was made."

Sec. 2. This act is effective upon ratification and applies to any new or renovated school construction covered under Section 1 of this act that starts the design process after the effective date of this act.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 100 **CHAPTER 466**

AN ACT TO VEST AUTHORITY IN THE SECRETARY OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES TO GRANT SHELLFISH CULTIVATION LEASES, TO MAKE CHANGES TO CHAPTER 113 OF THE NORTH CAROLINA

GENERAL STATUTES, AND TO STUDY THE PREVENTION OF MARINE LITTER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-202 reads as rewritten:

"§ *113-202. New and renewal leases for shellfish cultivation; termination of leases issued prior to January 1, 1966.*

(a) To increase the use of suitable areas underlying coastal fishing waters for the production of shellfish, the ~~Marine Fisheries Commission~~ Secretary may grant shellfish cultivation leases to persons who reside in North Carolina under the terms of this section when ~~it determines~~ the Secretary determines, in accordance with his duty to conserve the marine and estuarine resources of the State, that the public interest will benefit from issuance of the lease. Suitable areas for the production of shellfish shall meet the following minimum standards:

(1) The area leased must be suitable for the cultivation and harvesting of shellfish in commercial quantities.

(2) The area leased must not contain a natural shellfish bed.

(3) Cultivation of shellfish in the leased area will be compatible with lawful utilization by the public of other marine and estuarine resources. Other public uses which may be considered include, but are not limited to, navigation, fishing and recreation.

(4) Cultivation of shellfish in the leased area will not impinge upon the rights of riparian owners.

(5) The area leased must not include an area designated for inclusion in the Department's Shellfish Management Program.

(6) The area leased must not include an area which the State Health Director has recommended be closed to shellfish harvest by reason of pollution.

(b) The ~~Marine Fisheries Commission~~ Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The ~~Marine Fisheries Commission~~ Secretary may not grant a new lease in an area heavily used for recreational purposes.

(c) No person, including a corporate entity, or single family unit may acquire and hold by lease, lease renewal, or purchase more than 50 acres of public bottoms under shellfish cultivation leases.

(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the

desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If on the basis of the application information and map or diagram the Secretary deems that granting the lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial lease applications, must order an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or his authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection (a) and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall ~~recommend that the application be denied~~ deny the application or propose that a conditional lease be issued ~~which~~ that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making application for an initial lease, the applicant must pay a filing fee of one hundred dollars ($100.00).

(e) The area of bottom applied for in the case of an initial lease or amended initial lease must be as compact as possible, taking into consideration the shape of the body of water, the consistency of the bottom, and the desirability of separating the boundaries of a leasehold by a sufficient distance from any known natural shellfish bed to prevent the likelihood of disputes arising between the leaseholder and members of the public taking shellfish from the natural bed.

(f) Within a reasonable time after receipt of an application that complies with subsection (d), the Secretary shall notify the applicant ~~whether he recommends approval, disapproval, or modification~~ of the intended action on the lease application. ~~In the event the Secretary recommends approval or~~ If the intended action is approval of the application as submitted or approval with a modification to which the applicant agrees, the Secretary shall conduct a public hearing in the county where the proposed leasehold lies. The Secretary must publish at least two notices of the intention to lease in a newspaper of general circulation in the county in which the proposed leasehold lies. The first publication must precede the public hearing by more than 20 days; the second publication must follow the first by seven to 11 days. The notice of intention to lease must contain a sufficient description of

the area of the proposed leasehold that its boundaries may be established with reasonable ease and certainty and must also contain the date, hour and place of the hearing. ~~The Secretary's recommendation of disapproval shall become the final agency decision of the application unless the applicant requests in writing within 20 days of notice of such action an administrative hearing before the Marine Fisheries Commission.~~

(g) ~~Protests to the granting of a proposed lease shall be made either in writing under oath prior to the public hearing held by the Secretary or by testimony under oath during the public hearing.~~ After consideration of the ~~protests~~ public comment received and any additional investigations ~~he~~ the Secretary orders to evaluate the ~~protests,~~ comments, the Secretary shall ~~send to~~ notify the applicant ~~and protesting parties~~ in person or by certified or registered mail of ~~his final recommendation~~ the decision on the lease application. The Secretary shall also notify persons who submitted comments at the public hearing and requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's decision or another person aggrieved by the decision may commence a contested case by filing a petition under G.S. 150B-23 within 20 days after receiving notice of the Secretary's decision. In the event the Secretary's ~~final recommendation~~ decision is a modification to which the applicant agrees, the lease applicant must furnish an amended map or diagram before the ~~Secretary's final recommendation can be presented to the Marine Fisheries Commission,~~ lease can be issued by the Secretary. ~~In the event the Secretary's final recommendation is inconsistent with a protest, the person filing the protest may request in writing within 20 days of notice of such action an administrative hearing before the Marine Fisheries Commission. The Secretary's final recommendation of disapproval shall become the final agency decision of the application unless the applicant requests in writing within 20 days of notice of such action an administrative hearing before the Marine Fisheries Commission.~~ The Secretary shall make the final agency decision in a contested case.

(h) ~~The Secretary shall present all lease applications recommended for approval to the Marine Fisheries Commission for final determination. In addition to his final recommendation, the Secretary shall present the official record of the application as developed pursuant to the requirements of this action. The applicants and persons who protested the application shall be given an opportunity to present oral and written arguments based on the official record. Unless the Marine Fisheries Commission, in its discretion, refers the matter for an administrative hearing, the Marine Fisheries Commission shall determine all lease applications presented by the~~

~~Secretary during the public meetings when the matter is presented. The Marine Fisheries Commission, Secretary, in its his discretion, may lease or decline to lease public bottoms in accordance with its his duty to conserve the marine and estuarine resources of the State.~~

~~More than 20 days prior to an administrative hearing conducted pursuant to this section, the Secretary must publish notice of the hearing in a newspaper of general circulation in the county where the proposed leasehold lies. The hearing shall be conducted in the county where the proposed leasehold lies. Protests to the granting of the proposed lease may be made during the administrative hearing by parties to the hearing, intervening parties, and witnesses for parties. When administrative hearings have been conducted pursuant to this section, the Marine Fisheries Commission shall determine the lease applications during the public meeting when the proposal for decision is presented by the hearing officer(s).~~

(i) After a lease application is approved by the ~~Marine Fisheries Commission,~~ Secretary, the applicant shall submit to the Secretary a survey of the area approved for leasing and define the bounds of the area approved for leasing with markers in accordance with the rules of the Commission. The survey shall conform to standards prescribed by the Secretary concerning accuracy of survey and the amount of detail to be shown. When an acceptable survey is submitted, the boundaries are marked and all fees and rents due in advance are paid, the Secretary shall execute the lease on forms approved by the Attorney General. ~~If the applicant and the Secretary are unable to agree that the area approved for lease is that shown in the survey, the Secretary shall report the matter with reasonable dispatch to the Marine Fisheries Commission for resolution.~~ The Secretary is authorized, with the approval of the lessee, to amend an existing lease by reducing the area under lease or by combining contiguous leases without increasing the total area leased.

(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of April following the tenth anniversary of the granting of the lease. Renewal leases are issued for a period of 10 years effective from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of fifty dollars ($50.00). The rental for initial leases is one dollar ($1.00) per acre for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of April following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965, and from the beginning for renewals of leases entered into after said date, the rental is five dollars ($5.00) per acre per year. Rental must be paid annually in advance prior to the first day of April each year. Upon

initial granting of a lease, the pro rata amount for the portion of the year left until the first day of April must be paid in advance at the rate of one dollar ($1.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year.

(k) Except as restricted by this Subchapter, leaseholds granted under this section are to be treated as if they were real property and are subject to all laws relating to taxation, sale, devise, inheritance, gift, seizure and sale under execution or other legal process, and the like. Leases properly acknowledged and probated are eligible for recordation in the same manner as instruments conveying an estate in real property. Within 30 days after transfer of beneficial ownership of all or any portion of or interest in a leasehold to another, the new owner must notify the Secretary of such fact. Such transfer is not valid until notice is furnished the Secretary. In the event such transferee is a nonresident, the Secretary must initiate proceedings to terminate the lease.

(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

(1) Failure to pay the annual rent in advance.
(2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.
(3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.
(4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.
(5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.
(6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.
(7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.

The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his

lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions of this paragraph of this subsection, his leasehold shall not be terminated under subdivision (5) of this subsection.

(m) In the event the leaseholder takes steps within 30 days to remedy the situation upon which the notice of intention to terminate was based and the Secretary is satisfied that continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary may discontinue termination procedures. Where there is no discontinuance of termination procedures, the leaseholder may ~~appeal to the Marine Fisheries Commission,~~ initiate a contested case by filing a petition under G.S. 150B-23 within 30 days of receipt of notice of intention to terminate. The Secretary shall make the final agency decision of all lease terminations. Where ~~there is no appeal, or where an appeal does not prevail,~~ the leaseholder does not initiate a contested case, or the Secretary's final decision upholds termination, the Secretary must send a final letter of termination to the leaseholder. The final letter of termination may not be mailed sooner than 30 days after receipt by the leaseholder of the Secretary's notice of intention to ~~terminate,~~ terminate, or of the Secretary's final agency decision, as appropriate. The lease is terminated effective at midnight on the day the final notice of termination is served on the leaseholder. The final notice of termination may not be issued pending hearing of ~~any appeal by the Marine Fisheries Commission,~~ a contested case initiated by the leaseholder.

Service of any notice required in this subsection may be accomplished by certified mail, return receipt requested; personal service by any law-enforcement officer; or upon the failure of these two methods, publication. Service by publication shall be accomplished by publishing such notices in a newspaper of general circulation within the county where the lease is located for at least once a week for three successive weeks. The format for notice by publication shall be approved by the Attorney General.

(n) Upon final termination of any leasehold, the bottom in question is thrown open to the public for use in accordance with laws and rules governing use of public grounds generally. Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned markers denominating the area of the leasehold as a private bottom. The State may, after 10 days' notice to the owner of the abandoned markers thereof, remove the abandoned structure and have the area cleaned up. The cost of such removal and cleanup shall be

payable by the owner of the abandoned markers and the State may bring suit to recover the costs thereof.

(o) Every year between January 1 and February 15 the Secretary must mail to all leaseholders a notice of the annual rental due and include forms designed by him for determining the amount of shellfish or shells planted on the leasehold during the preceding calendar year, and the amount of harvest gathered. Such forms may contain other pertinent questions relating to the utilization of the leasehold in the best interests of the shellfish culture of the State, and must be executed and returned by the leaseholder with the payment of his rental. Any leaseholder or his agent executing such forms for him who knowingly makes a false statement on such forms is guilty of a misdemeanor punishable in the discretion of the court.

(p) All leases and renewal leases granted after the effective date of this Article are made subject to this Article and to reasonable amendment of governing statutes, rules of the Marine Fisheries Commission, and requirements imposed by the Secretary or his agents in regulating the use of the leasehold or in processing applications of rentals. This includes such statutory increase in rentals as may be necessitated by changing conditions and refusal to renew lease after expiration, in the discretion of the ~~Marine Fisheries Commission,~~ Secretary. No increase in rentals, however, may be given retroactive effect.

The General Assembly declares it to be contrary to public policy to the oyster and clam bottoms which were leased prior to January 1, 1966, and which are not being used to produce oysters and clams in commercial quantities to continue to be held by private individuals, thus depriving the public of a resource which belongs to all the people of the State. Therefore, when the Secretary determines, after due notice to the lessee, and after opportunity for the lessee to be heard, that oysters or clams are not being produced in commercial quantities, due to the lessee's failure to make diligent effort to produce oysters and clams in commercial quantities, the Secretary may decline to renew, at the end of the current term, any oyster or clam bottom lease which was executed prior to January 1, 1966. The lessee may appeal the denial of the Secretary to renew the lease ~~to the Marine Fisheries Commission in which event the lessee shall be granted an opportunity to be heard, de novo, by the Marine Fisheries Commission and~~ by initiating a contested case pursuant to G.S. 150B-23. In such contested cases, the burden of proof, by the greater weight of the evidence, shall be on the lessee. ~~The Marine Fisheries Commission, by majority vote, may affirm or reverse the action of the Secretary. No appeal shall be allowed from the action of the Marine Fisheries Commission.~~

(q) Repealed by Session Laws 1983, c. 621, s. 16, effective July 1, 1983."

Sec. 2. G.S. 113-202.1, as amended by Chapter 322 of the 1993 Session Laws, reads as rewritten:

"*§ 113-202.1. Water column leases for aquaculture.*

(a) To increase the productivity of leases for shellfish culture issued under G.S. 113-202, the ~~Marine Fisheries Commission~~ Secretary may amend shellfish cultivation leases to authorize use of the water column superjacent to the leased bottom under the terms of this section when ~~it~~ he determines the public interest will benefit from amendment of the leases. Leases with water column amendments must produce shellfish in commercial quantities at four times the minimum production rate of leases issued under G.S. 113-202, or any higher quantity required by the Marine Fisheries Commission through duly adopted rules.

(b) Suitable areas for the authorization of water column use shall meet the following minimum standards:

(1) Aquaculture use of the leased area must not significantly impair navigation;

(2) The leased area must not be within a navigation channel marked or maintained by a state or federal agency;

(3) The leased area must not be within an area traditionally used and available for fishing or hunting activities incompatible with the activities proposed by the leaseholder, such as trawling or seining;

(4) Aquaculture use of the leased area must not significantly interfere with the exercise of riparian rights by adjacent property owners including access to navigation channels from piers or other means of access; and

(5) Any additional standards, established by the Commission in duly adopted rules, to protect the public interest in coastal fishing waters.

(c) The ~~Commission~~ Secretary shall not amend shellfish cultivation leases to authorize use of the water column unless:

(1) The leaseholder submits an application, accompanied by a nonrefundable application fee of one hundred dollars ($100.00), which conforms to the standards for lease applications in G.S. 113-202(d) and the duly adopted rules of the Commission;

(2) The proposed amendment has been noticed consistent with G.S. 113-202(f);

(3) Public hearings have been conducted consistent with G.S. 113-202(g);

(4) The aspects of the proposals which require use and dedication of the water column have been documented and are recognized by the ~~Commission~~ Secretary as commercially feasible forms of aquaculture which will enhance shellfish production on the leased area;

(5) It is not feasible to undertake the aquaculture activity outside of coastal fishing waters; and

(6) The authorized water column use has the least disruptive effect on other public trust uses of the waters of any available technology to produce the shellfish identified in the proposal.

(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of five years or the remainder of the term of the lease, whichever is shorter. The annual rental for an initial water column amendment is one hundred dollars ($100.00) an acre for each of the first four years for which the amendment is issued and five hundred dollars ($500.00) an acre for the fifth year for which the amendment is issued. The annual rental for a renewed water column amendment is five hundred dollars ($500.00) an acre. If a year for which a water column amendment is issued is less than a 12-month period, the rental for that year shall be prorated based on the number of months in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202.

(e) Amendments of shellfish cultivation leases to authorize use of the water column are subject to termination in accordance with the procedures established in G.S. 113-202 for the termination of shellfish cultivation leases. Additionally, such amendments may be terminated for unauthorized or unlawful interference with the exercise of public trust rights by the leaseholder, agents and employees of the leaseholder.

(f) Amendments of shellfish cultivation leases to authorize use of the water column are not transferrable except when the ~~Commission~~ Secretary approves the transfer after public notice and hearing consistent with subsection (c) of this section.

(g) After public notice and hearing consistent with subsection (c) of this section, the ~~Commission~~ Secretary may renew an amendment, in whole or in part, when the leaseholder has produced commercial quantities of shellfish and has otherwise complied with the rules of the Commission. Renewals may be denied or reduced in scope when the public interest so requires. Appeal of renewal decisions shall be conducted in accordance with G.S. 113-202(p). Renewals are subject to the lease terms and rates established in subsection (d) of this section.

(h) The procedures and requirements of G.S. 113-202 shall apply to proposed amendments or amendments of shellfish cultivation leases considered under this section except more specific provisions of this section control conflicts between the two sections.

(i) To the extent required by demonstration or research aquaculture development projects, the ~~Commission~~ Secretary may amend existing leases and issue leases that authorize use of the bottom and the water column. Demonstration or research aquaculture development projects may be authorized for two years with no more than one renewal and when the project is proposed or formally sponsored by an educational institution which conducts research or demonstration of aquaculture. Production of shellfish with a sales value in excess of one thousand dollars ($1,000) per acre per year shall constitute commercial production. Demonstration or research aquaculture development projects shall be exempt for the rental rate in subsection (d) of this section unless commercial production occurs as a result of the project."

Sec. 3. G.S. 113-202.2, as amended by Chapter 322 of the 1993 Session Laws, reads as rewritten:

"§ *113-202.2. Water column leases for aquaculture for perpetual franchises.*

(a) To increase the productivity of shellfish grants and perpetual franchises for shellfish culture recognized under G.S. 113-206, the ~~Marine Fisheries Commission~~ Secretary may lease the water column superjacent to such grants or perpetual franchises (hereinafter 'perpetual franchises') under the terms of this section when it determines the public interest will benefit from the lease. Perpetual franchises with water column leases must produce shellfish in commercial quantities at four times the minimum production rate of leases issued under G.S. 113-202, or any higher quantity required by the Marine Fisheries Commission by rule.

(b) Suitable areas for the authorization of water column use shall meet the following minimum standards:

(1) Aquaculture use of the leased water column area must not significantly impair navigation;

(2) The leased water column area must not be within a navigation channel marked or maintained by a State or federal agency;

(3) The leased water column area must not be within an area traditionally used and available for fishing or hunting activities incompatible with the activities proposed by the perpetual franchise holder, such as trawling or seining;

(4) Aquaculture use of the leased water column area must not significantly interfere with the exercise of riparian rights by

adjacent property owners including access to navigation channels from piers or other means of access;

(5) The leased water column area may not exceed 10 acres for grants or perpetual franchises recognized pursuant to G.S. 113-206;

(6) The leased water column area must not extend more than one-third of the distance across any body of water or into the channel third of any body of water for grants or perpetual franchises recognized pursuant to G.S. 113-206; and

(7) Any additional rules to protect the public interest in coastal fishing waters adopted by the Commission.

(c) The ~~Commission~~ Secretary shall not lease the water column superjacent to oyster or other shellfish grants or perpetual franchises unless:

(1) The perpetual franchise holder submits an application, accompanied by a nonrefundable application fee of one hundred dollars ($100.00), which conforms to the standards for lease applications in G.S. 113-202(d) and rules adopted by the Commission;

(2) Notice of the proposed lease has been given consistent with G.S. 113-202(f);

(3) Public hearings have been conducted consistent with G.S. 113-202(g);

(4) The aspects of the proposals which require use and dedication of the water column have been documented and are recognized by the ~~Commission~~ Secretary as commercially feasible forms of aquaculture which will enhance shellfish production;

(5) It is not feasible to undertake the aquaculture activity outside of coastal fishing waters; and

(6) The authorized water column use has the least disruptive effect on other public trust uses of the waters of any available technology to produce the shellfish identified in the proposal.

(d) Water column leases to perpetual franchises shall be issued for a period of five years and may be renewed pursuant to subsection (g) of this section. The rental for an initial water column lease issued under this section is the same as the rental set in G.S. 113-202.1 for an initial water column amendment issued under that section, and the rental for a renewed water column lease issued under this section is the same as the rental set in G.S. 113-202.1 for a renewed water column amendment issued under that section.

(e) Water column leases to perpetual franchises may be terminated for unauthorized or unlawful interference with the exercise of public trust rights by the leaseholder or his agents or employees.

(f) Water column leases to perpetual franchises are not transferrable except when the ~~Commission~~ Secretary approves the transfer after public notice and hearing consistent with G.S. 113-202(f) and (g).

(g) After public notice and hearing consistent with G.S. 113-202(f) and (g), the ~~Commission~~ Secretary may renew a water column lease, in whole or in part, if the leaseholder has produced commercial quantities of shellfish and has otherwise complied with this section and the rules of the Commission. Renewals may be denied or reduced in scope when the public interest so requires. Appeal of renewal decisions shall be conducted in accordance with G.S. 113-202(p). Renewals are subject to the lease terms and rates set out in subsection (d) of this section.

(h) The procedures and requirements of G.S. 113-202 shall apply to proposed water column leases or water column leases to perpetual franchises considered under this section except that more specific provisions of this section control conflicts between the two sections.

(i) Demonstration or research aquaculture development projects may be authorized for two years with no more than one renewal and when the project is proposed or formally sponsored by an educational institution which conducts aquaculture research or demonstration projects. Production of shellfish with a sales value in excess of one thousand dollars ($1,000) per acre per year shall constitute commercial production. Demonstration or research aquaculture development projects shall be exempt from the rental rate in subsection (d) of this section unless commercial production occurs as a result of the project."

Sec. 4. G.S. 113-154 reads as rewritten:

"§ *113-154. ~~Oyster, scallop and clam~~ Shellfish and crab licenses.*

(a) ~~In addition to all other license requirements, every individual engaged in taking oysters, scallops, or clams~~ It is unlawful for an individual to take shellfish or crabs from the public or private grounds of North Carolina by mechanical means or for commercial use by any means ~~whatever must have~~ without having first procured an individual ~~oyster, scallops, and clam~~ shellfish and crab license.

(b) It is unlawful for any individual to take ~~oysters, scallops, or clams~~ shellfish or crabs for commercial use from the public or private grounds of North Carolina without having ready at hand for inspection a current and valid ~~oyster, scallop, and clam~~ shellfish and crab license issued to him personally and bearing his correct name and address. It is unlawful for any such individual taking or possessing freshly taken

~~oysters, scallops, or clams~~ shellfish or crabs to refuse to exhibit his license upon the request of an officer authorized to enforce the fishing laws.

(c) ~~Oyster, scallop, and clam~~ Shellfish and crab licenses are issued annually on a fiscal year basis upon payment of a fee of ~~four dollars ($4.00)~~ fifteen dollars ($15.00) upon proof that the license applicant is a resident of North Carolina: Provided, that persons under 16 years of age are exempt from the license requirements of this section if they are accompanied by their parent or guardian who is in compliance with the requirements of this section or if they have in their possession their parent's or guardian's ~~oyster, scallop, and clam~~ shellfish and crab license. Notwithstanding G.S. 113-130, for purposes of this subsection, a North Carolina resident means a person that has resided in North Carolina for six months immediately preceding the application for the shellfish and crab license.

(d) In the event an individual possessing ~~an oyster, scallop, and clam~~ a shellfish and crab license changes his name or address or receives one erroneous in this respect, he must within 30 days surrender the license for one bearing the correct name and address. An individual prosecuted for failure to possess a valid license is exonerated if he can show that the invalidity consisted solely of an incorrect name or address appearing in a license to which he was lawfully entitled and that the erroneous condition had not existed for longer than 30 days.

(e) It is unlawful for an individual issued ~~an oyster, scallop, and clam~~ a shellfish and crab license to transfer or offer to transfer his license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure ~~an oyster, scallop, or clam~~ a shellfish and crab license from a source not authorized by the Marine Fisheries Commission."

Sec. 5. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"*§ 143-214.2B. Storage of waste on vessels.*

The operator of a vessel in the State's waters shall take precautions to ensure that certain items do not enter and contaminate the waters. The operator shall store fuel, oil, paint, varnish, solvent, pesticide, insecticide, fungicide, algicide, or any other hazardous liquid in one or more closed containers that are adequate to prevent the release of the items into the waters of the State."

Sec. 6. In addition to the powers and functions set forth in Article 12F of Chapter 120 of the General Statutes, the Joint Legislative Commission on Seafood and Aquaculture shall study and evaluate the effect of littering on water pollution. Special emphasis shall be placed on the intentional or reckless disposal of non-readily

biodegradable materials in the waters of the State. The Commission shall report its findings and recommendations to the 1993 General Assembly, 1994 Regular Session.

Sec. 7. The provisions of this act are severable. If a court determines that a provision of this act is invalid, the invalidity does not affect other provisions of this act that can be given effect without the invalid provision.

Sec. 8. This act becomes effective January 1, 1994.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 128 **CHAPTER 467**

AN ACT TO EXEMPT CERTAIN TRANSFERS OF VEHICLES FROM THE HIGHWAY USE TAX, TO REIMBURSE THE HIGHWAY TRUST FUND FOR REVENUE THAT WOULD OTHERWISE BE LOST AS A RESULT OF THE EXEMPTIONS, TO INCREASE REVENUES TO PROVIDE FUNDS TO MAKE THE REIMBURSEMENT, TO LOWER THE MAXIMUM HIGHWAY USE TAX ON CERTAIN COMMERCIAL VEHICLES, TO INCREASE THE ANNUAL REGISTRATION FEES FOR CERTAIN PROPERTY-HAULING VEHICLES, AND TO CREDIT THE INCREASED REVENUE FROM THE REGISTRATION FEES TO THE HIGHWAY TRUST FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-187.6(a) reads as rewritten:

"(a) Full Exemptions. -- The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

(1) To the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.

(2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.

(3) To the same owner to reflect a change or correction in the owner's name.

(4) By will or intestacy.

(5) By a ~~conveyance~~ gift between a husband and ~~wife or~~ wife, a parent and ~~child~~ child, or a stepparent and a stepchild.

(6) By a distribution of marital property as a result of a divorce.

(7) To a handicapped person from the Department of Human Resources after the vehicle has been equipped by the Department for use by the handicapped.

(8) To a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:

a. By a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board.

b. By a local board of education."

Sec. 2. G.S. 20-66 reads as rewritten:

"§ 20-66. *Renewal of vehicle registration; ~~semipermanent plates issued; renewal sticker annually;~~ prorated fees.*

(a) ~~Application for renewal of a vehicle registration shall be made by the owner upon proper application and by payment of the registration fee for such vehicle, as provided by law.~~ Annual Renewal. -- The registration of a vehicle must be renewed annually. To renew the registration of a vehicle, the owner of the vehicle must file an application with the Division and pay the required registration fee. The Division may receive and grant ~~applications~~ an application for renewal of registration at any time ~~prior to expiration of registration,~~ before the registration expires.

(b) ~~For the registration period beginning January 1, 1975, the Division, upon proper application for renewal of registration for private passenger motor vehicles, shall issue a new registration plate and registration card. For the registration period beginning January 1, 1976, and all subsequent registration periods, the Division, upon application for renewal of registration, shall, in lieu of a new registration plate, issue one or more stickers, tabs or other suitable devices denoting the registration period for which issued; provided that for the registration periods beginning January 1, 1978, and thereafter, the Division may, as it deems advisable in the discretion of the Commissioner, issue new registration plates together with such stickers, tabs or other devices.~~ Method of Renewal. -- When the Division renews the registration of a vehicle, it must issue a new registration card for the vehicle and either a new registration plate or a registration renewal sticker. The Division may not renew a registration plate for a vehicle by means of a renewal sticker unless the Division is authorized to use that method of renewal. The Division may renew a registration plate issued for the following types of vehicles by means of a renewal sticker:

(1) Motorcycles.

(2) Private passenger vehicles.

(3) U-drive-it passenger vehicles.

(4) Property-hauling vehicles licensed for 4,000 pounds gross weight.

(5) Vehicles registered under the International Registration Plan.

(6) Trailers.

~~(b1) For renewal periods beginning January 1, 1978, and thereafter, renewal registrations of private hauler trucks licensed for 4,000 pounds gross weight, motorcycles, U-drive-it passenger vehicles and trailers may be made by issuance of stickers, tabs, or other devices in lieu of new registration plates, or in combination with new registration plates, at the discretion of the Commissioner. Such stickers, tabs or other devices shall show the period of validity of registration. This provision shall not apply to trucks licensed as common carriers, for-hire trucks, rental trucks or contract carrier trucks.~~

(c) ~~Stickers, tabs or other devices~~ Renewal Stickers. -- A registration renewal sticker issued ~~hereunder shall~~ by the Division must be displayed ~~as~~ on the registration plate that it renews in the place prescribed by the ~~Commissioner.~~ Commissioner and must indicate the period for which it and the registration plate on which it is displayed are valid. Except where ~~the~~ physical differences between ~~the stickers, tabs, or devices and registration plates by their nature~~ a registration renewal sticker and a registration plate render ~~any~~ a provision of this Chapter inapplicable, ~~all~~ the provisions of this Chapter relating to registration plates ~~shall~~ apply to ~~stickers, tabs or devices,~~ registration renewal stickers.

(d) Staggered Expiration. -- The Division may ~~also provide for the issuance of license~~ issue registration plates for ~~motor~~ vehicles with ~~the~~ dates of expiration ~~thereof to~~ dates that vary from month to month so ~~as to~~ that an approximately ~~equalize the~~ equal number ~~that~~ will expire during each month of the registration year.

(e) Prorated Fee. -- A vehicle license fee shall be computed by dividing the annual license fee by 12 and multiplying the quotient by the number of months remaining prior to the end of the month of expiration of the registration. Amounts so computed shall be rounded to the nearest multiple of twenty-five cents (25¢).

~~(f) No vehicle owner shall be required to pay the tax required by G.S. 20-88.1 at a rate greater than the annual rate prescribed in G.S. 20-88.1, because of Division of Motor Vehicles' procedures for implementing this subsection. Compliance with this restriction may be accomplished by computing the tax for a portion of a year by dividing the annual amount by 12 and multiplying the quotient by the number of months remaining prior to the end of the month of expiration of the registration. Amounts so computed shall be rounded to the nearest multiple of twenty-five cents (25¢).~~

(g) ~~Registration of all vehicles required to be registered under the staggered system shall expire~~ When Renewal Sticker Expires. -- The registration of a vehicle that is renewed by means of a registration

renewal sticker expires at midnight on the last day of the month designated on the ~~validation sticker, tab or other device issued by the Division of Motor Vehicles to validate that registration: Provided, however, that it shall not be unlawful to continue to operate any vehicle upon the highways of this State after the expiration of the registration of said vehicle, registration card and registration plate during the 15-day period, inclusive of the fifteenth day immediately following the last day of the month designated on the validation sticker, tab or other device issued by the Division of Motor Vehicles to validate that registration if the registration plate validation sticker, tab or other device is registered to the vehicle prior to the first day of expiration month,~~ sticker. It is lawful, however, to operate the vehicle on a highway until midnight on the fifteenth day of the month following the month in which the sticker expired.

(h) ~~Registration of all vehicles not required to be registered under the staggered system shall expire~~ When Calendar-Year Plate Expires. -- The registration of a vehicle that is not renewed by means of a registration renewal sticker expires at midnight on ~~the thirty-first day of~~ December 31 of each ~~year; Provided, however, that it shall not be unlawful to continue~~ year. It is lawful, however, to operate ~~any vehicle upon the highways of this State after the expiration of the registration of said vehicle, registration card and registration plate during the period between the thirty-first day of December and the fifteenth day of February, inclusive, if the license plate is registered to the vehicle on which it is being used prior to the thirty-first day of December. Provided further that the fee required under G.S. 20-88.1 shall be paid and collected in its entirety at any time such vehicles are registered and is not to be prorated,~~ the vehicle on a highway until midnight on the following February 15.

(i) Property Tax Consolidation. -- When the Division receives an application under subsection (a) for the renewal of registration before the current registration expires, the Division shall grant the application if it is made for the purpose of consolidating the property taxes payable by the applicant on classified motor vehicles, as defined in G.S. 105-330. The registration fee for a motor vehicle whose registration cycle is changed under this subsection shall be reduced by a prorated amount. The prorated amount is one-twelfth of the registration fee in effect when the motor vehicle's registration was last renewed multiplied by the number of full months remaining in the motor vehicle's current registration cycle, rounded to the nearest multiple of twenty-five cents (25¢)."

Sec. 3. G.S. 105-187.3(a) reads as rewritten:

"(a) Amount. -- The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a

certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. The tax may not be less than forty dollars ($40.00) for each motor vehicle for which a certificate of title is issued, unless the issuance of a title for the vehicle is exempt from tax under G.S. 105-187.6(a). The tax may not be more than one thousand dollars ($1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The tax may not be more than one thousand five hundred dollars ($1,500) for each certificate of title issued for any other motor ~~vehicle for which a certificate of title is issued.~~ vehicle."

Sec. 4. G.S. 20-88(b) reads as rewritten:

"(b) ~~There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of self-propelled property-carrying vehicles, fees according to the following classification and schedule and upon the following conditions:~~ The following fees are imposed on the annual registration of self-propelled property-hauling vehicles; the fees are based on the type of vehicle and its weight:

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight	Farmer
Not over ~~4,500~~ 4,000 pounds	$0.23
~~4,501 to 8,500~~ 4,001 to 9,000 pounds inclusive	.29
~~8,501 to 12,500~~ 9,001 to 13,000 pounds inclusive	.37
~~12,501 to 16,500~~ 13,001 to 17,000 pounds inclusive	.51
Over ~~16,500~~ 17,000 pounds	.58

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight	Private Hauler, Contract Carriers, Flat Rate Common ~~Carriers~~ Carriers, and Exempt For-Hire Carriers	
Not over ~~4,500~~ 4,000 pounds		$0.46
~~4,501 to 8,500~~ 4,001 to 9,000 pounds inclusive	~~.58~~	.63
~~8,501 to 12,500~~ 9,001 to 13,000 pounds inclusive	~~.73~~	.78
~~12,501 to 16,500~~ 13,001 to 17,000 pounds inclusive	~~1.01~~	1.06
Over ~~16,500~~ 17,000 pounds	~~1.15~~	1.20

(1) The minimum fee for a vehicle licensed under this subsection ~~shall be~~ is seventeen dollars and fifty cents ($17.50) at the farmer rate and twenty-one dollars and fifty cents ($21.50) at the private hauler, contract ~~carrier~~ carrier, and common carrier rates.

(2) The term 'farmer' as used in this subsection means any person engaged in the raising and growing of farm products on a farm in North Carolina not less than 10 acres in area, and who does not engage in the business of buying products for resale.

(3) License plates issued at the farmer rate shall be placed upon trucks and truck-tractors that are operated exclusively in the carrying or transportation of applicant's farm products, raised or produced on his farm, and farm supplies and not operated in hauling for hire.

(4) 'Farm products' means any food crop, livestock, poultry, dairy products, flower bulbs, or other nursery products and other agricultural products designed to be used for food purposes, including in the term 'farm products' also cotton, tobacco,

logs, bark, pulpwood, tannic acid wood and other forest products grown, produced, or processed by the farmer.

(5) The Division shall issue necessary rules and regulations providing for the recall, transfer, exchange or cancellation of 'farmer' plates, when vehicle bearing such plates shall be sold or transferred.

(5a) Notwithstanding any other provision of this Chapter, license plates issued pursuant to this subsection at the farmer rate may be purchased for any three-month period at one fourth of the annual fee.

(6) There shall be paid to the Division annually as of the first of January, the following fees for 'wreckers' as defined under G.S. 20-4.01(50): a wrecker fully equipped weighing 7,000 pounds or less, seventy-five dollars ($75.00); wreckers weighing in excess of 7,000 pounds shall pay one hundred forty-eight dollars ($148.00). Fees to be prorated quarterly. Provided, further, that nothing herein shall prohibit a licensed dealer from using a dealer's license plate to tow a vehicle for a customer."

Sec. 5. G.S. 20-85(b) reads as rewritten:

"(b) ~~Six-sevenths of the revenue~~ Thirty-one dollars and fifty cents ($31.50) of each title fee collected under subdivision (a)(1) of this section and all of the ~~revenue~~ fees collected under the other subdivisions in subsection (a) shall be credited to the North Carolina

Highway Trust Fund; the remaining ~~one-seventh~~ three dollars and fifty cents ($3.50) of the ~~revenue~~ title fee collected under subdivision (a)(1) shall be credited to the Highway Fund. ~~One-half of the amount~~ Fifteen dollars ($15.00) of each title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5."

Sec. 6. Sections 4 and 5 of this act become effective October 1, 1993. The remaining sections of this act become effective August 1, 1993. A person who paid highway use tax on a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01, at the maximum rate of one thousand five hundred dollars ($1,500) instead of the maximum rate of one thousand dollars ($1,000) set by Section 3 of this act may apply to the Division of Motor Vehicles of the Department of Transportation for a refund of the difference between the amount of tax paid at the higher maximum rate and the amount that would have been paid had Section 3 of this act been in effect when the title to the vehicle was issued. To obtain a refund, a person must submit an application to the Division of Motor Vehicles by January 1, 1994, and provide any information required by the Division to verify the accuracy of the application.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 736 **CHAPTER 468**

AN ACT TO COMPLETE THE MERGER OF THE EDGECOMBE COUNTY AND TARBORO CITY SCHOOL ADMINISTRATIVE UNITS, TO REQUIRE THAT THE BOARDS OF TRUSTEES OF EDGECOMBE COMMUNITY COLLEGE AND NASH COMMUNITY COLLEGE STUDY A POSSIBLE MERGER OF THE TWO COLLEGES INTO A CONSOLIDATED COMMUNITY COLLEGE TO SERVE A COMBINED SERVICE DELIVERY AREA AND TO PROVIDE THAT THE CABARRUS COUNTY BOARD OF EDUCATION MAY CALL FOR A SPECIAL ELECTION TO FILL A VACANCY ON THAT BOARD.

The General Assembly of North Carolina enacts:

Section 1. (a) Location of the Interim Superintendent's Office. Effective January 1, 1993, to expedite and improve communications among the Interim Superintendent, the separate boards of education, and the staff of the two school systems and to improve communication with agencies outside the school's district offices, the Interim

Edgecombe County Board of Education may make space available for the offices of the Interim Superintendent for the merged system.

(b) Pupil Assignment. The elected Board of Education of the merged Edgecombe County School Administrative Unit, hereinafter referred to as the "Merged Board", upon the effective date of the terms of office of the Merged Board, is subject to the following:

(1) Student assignment boundaries for the Edgecombe County School System shall not be changed for a period of three years following merger except by a three-fourths majority vote of the board. Following the initial three years, boundaries may be changed by a simple majority vote of the Merged Board.

(2) All policies related to the assignment of pupils to classes in the merged system shall remain unchanged for a period of two years from the date of merger except by a three-fourths majority vote of the board. Following the initial two-year period, a change in the assignment policy may occur by a simple majority vote of the Merged Board.

(c) Merged Superintendent. The Merged Board may replace, reassign, or terminate the contract of the Merged Superintendent, subject to the provisions and agreements set forth in the superintendent's contract and G.S. 115C-274, by a simple majority vote of the Merged Board.

(d) Assignment of Personnel. The Superintendent may reassign any and all personnel across previous administrative unit boundaries.

(e) Adoption of the Annual Budget Resolution. The Merged Board may adopt the annual budget resolution and subsequent amendments by a simple majority vote of the Merged Board.

(f) Members of the Edgecombe County Board of Education elected in 1994 who are unable to take the oath of office at the first regular meeting of the board in July of 1994 may take the oath of office no later than August 15, 1994.

Sec. 2. (a) For the purposes of this section:

(1) "Edgecombe Trustees Board" means the Board of Trustees of Edgecombe Community College.

(2) "Interim Board" means an interim governing board of a new community college that may be created by a merger of Edgecombe Community College and Nash Community College and which could govern the merged college until appointment of a board of trustees in accordance with Article 2 of Chapter 115D of the General Statutes.

(3) "Joint Study Board" means the entity formed when the Edgecombe Trustees Board and the Nash Trustees Board

convene jointly, and act jointly, to consider establishment of a merged college.

(4) "Merged college" means a new community college that would be created by a merger of Edgecombe Community College and Nash Community College.

(5) "Nash Trustees Board" means the Board of Trustees of Nash Community College.

(6) "State Board" means the State Board of Community Colleges.

(b) The Joint Study Board shall study a possible merger of Edgecombe Community College and Nash Community College into a new merged college serving a combined service delivery area consisting of the present service delivery areas of the two colleges. The State Board, if requested by the Joint Study Board, shall assist the Joint Board in the study.

(c) In studying the merger of Edgecombe Community College and Nash Community College, the Joint Study Board shall:

(1) Assess the fiscal capacities of the two colleges and the assignment of fiscal responsibilities;

(2) Assess the physical facilities, programs, and resources of the two colleges;

(3) Consider ways to facilitate the most efficient use of the resources of the two colleges, including review of the consolidation of the curricula, programs, equipment, physical plants, administration, faculty, and staff, and other resources of the two colleges;

(4) Review the administration and governance of both Edgecombe Community College and Nash Community College;

(5) Review long-range planning by Edgecombe Community College and Nash Community College;

(6) Consider elimination of any unproductive, low quality, unnecessary, or duplicative programs;

(7) Consider the composition of an Interim Board and the nature of the powers and authority that the Interim Board would require in the administration of a merged college; and

(8) Consider other relevant matters as determined by the Joint Board.

(d) By May 1, 1994, the Joint Study Board shall complete the study of the possible merger of Edgecombe Community College and Nash Community College into a consolidated institution of the North Carolina Community College System serving a combined service delivery area consisting of the present service delivery areas of the two colleges. A written report containing findings, conclusions, and

recommendations shall be prepared by the Joint Study Board, and copies of the report shall be submitted to the General Assembly by June 1, 1994. The final decision concerning whether to merge Edgecombe Community College and Nash Community College shall not be prejudiced by the fact that this study was authorized.

Sec. 2.1. Notwithstanding Section 4(l) of the Plan of Merger of the Cabarrus County Board of Education and the Concord City Board of Education filed with the Office of the Secretary of State of North Carolina on June 14, 1983, at 3:50 p.m., in the event of a vacancy on the Merged Board for a term expiring in December of 1994, if the Merged Board does not fill the vacancy by appointment made no later than August 16, 1993, the Merged Board may, no later than that date, call for a special election to be held on November 2, 1993, to fill the vacancy until the next election of members of the Board when a member shall be elected for a four-year term as provided by Section 2(c) of Chapter 102 of the Session Laws of 1989. The Cabarrus County Board of Elections shall establish the filing period for the special election.

Sec. 3. In case of conflict between this act and any local act, this act prevails to the extent of the conflict.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 799 **CHAPTER 469**

AN ACT TO EXEMPT CITIES AND COUNTIES FROM CERTAIN ZONING NOTICE REQUIREMENTS AND TO REPEAL VARIOUS LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-384 reads as rewritten:

"*§ 160A-384. Method of procedure.*

(a) The city council shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established and enforced, and from time to time amended, supplemented or changed, in accordance with the provisions of this Article. The procedures adopted pursuant to this section shall provide that whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts. ~~abstracts;~~

~~provided that this sentence does not apply in the case of a total rezoning of all property within the corporate boundaries of a municipality unless the rezoning involves zoning of parcels of land to less intense uses or 'down zoning' in which case notification to owners of those parcels shall be made by mail in accordance with this section.~~ The person or persons mailing such notices shall certify to the City Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.

(b) The first class mail notice required under subsection (a) of this section shall not be required in the following situations:

(1) The total rezoning of all property within the corporate boundaries of a municipality unless rezoning involves zoning of parcels of land to less intense or more restrictive uses. If rezoning involves zoning of parcels of land to less intense or more restrictive uses, notification to owners of these parcels shall be made by mail in accordance with subsection (a) of this section;

(2) The zoning is an initial zoning of the entire zoning jurisdiction area;

(3) The zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners;

(4) The reclassification is an amendment to the zoning text; or

(5) The city is adopting a water supply watershed protection program as required by G.S. 143-214.5.

In any case where this subsection eliminates the notice required by subsection (a) of this section, a city shall publish once a week for four successive calendar weeks in a newspaper having general circulation in the area maps showing the boundaries of the area affected by the proposed ordinance or amendment. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the city's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the city council that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, a city shall post one or more prominent signs immediately adjacent to the subject area reasonably calculated to give public notice of the proposed rezoning."

Sec. 2. G.S. 153A-343 reads as rewritten:

"*§ 153A-343. Method of procedure.*

(a) The board of commissioners shall, in accordance with the provisions of this Article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. The procedures adopted pursuant to this section shall provide that whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts. ~~abstracts; provided that this sentence does not apply in the case of a total rezoning of all property within the boundaries of a county unless the rezoning involves zoning of parcels of land to less intense uses or 'down zoning' in which case notification to owners of those parcels shall be made by mail in accordance with this section.~~ The person or persons mailing such notices shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.

(b) The first class mail notice required under subsection (a) of this section shall not be required in the following situations:

(1) The total rezoning of all property within the boundaries of a county or a zoning area as defined in G.S. 153A-342 unless rezoning involves zoning of parcels of land to less intense or more restrictive uses. If rezoning involves zoning of parcels of land to less intense or more restrictive uses, notification to owners of these parcels shall be made by mail in accordance with subsection (a) of this section;

(2) The zoning is an initial zoning of the entire zoning jurisdiction area;

(3) The zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners;

(4) The reclassification is an amendment to the zoning text; or

(5) The county is adopting a water supply watershed protection program as required by G.S. 143-214.5.

In any case where this subsection eliminates the notice required by subsection (a) of this section, a county shall publish once a week for four successive calendar weeks in a newspaper having general circulation in the area maps showing the boundaries of the area affected by the proposed ordinance or amendment. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property

owners who reside outside of the county's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the board of commissioners that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, a county shall post one or more prominent signs immediately adjacent to the subject area reasonably calculated to give public notice of the proposed rezoning."

Sec. 3. (a) The following laws are repealed effective January 1, 1994:

(1) Chapter 879, Session Laws of 1985;
(2) Chapter 950, Session Laws of 1985;
(3) Chapter 247, Session Laws of 1987;
(4) Chapter 339, Session Laws of 1987;
(5) Chapter 454, Session Laws of 1987;
(6) Chapter 455, Session Laws of 1987, except as to Forsyth County and municipalities located in that county;
(7) Chapter 903, Session Laws of 1987;
(8) Chapter 915, Session Laws of 1987;
(9) Chapter 198, Session Laws of 1989;
(10) Chapter 205, Session Laws of 1989;
(11) Chapter 237, Session Laws of 1989;
(12) Chapter 252, Session Laws of 1989;
(13) Chapter 312, Session Laws of 1989;
(14) Chapter 314, Session Laws of 1989;
(15) Chapter 509, Session Laws of 1989;
(16) Chapter 565, Session Laws of 1989;
(17) Chapter 568, Session Laws of 1989;
(18) Chapter 904, Session Laws of 1989;
(19) Chapter 6, Session Laws of 1991;
(20) Section 1 of Chapter 596, Session Laws of 1991;
(21) Chapter 846, Session Laws of 1991;
(22) Chapter 79, Session Laws of 1993;
(23) Chapter 101, Session Laws of 1993;
(24) Chapter 139, Session Laws of 1993;
(25) Chapter 154, Session Laws of 1993;
(26) Chapter 156, Session Laws of 1993;
(27) Chapter 267, Session Laws of 1993;
(28) Chapter 271, Session Laws of 1993, except for Forsyth County and municipalities located in that county;
(29) Chapter 296, Session Laws of 1993.
(30) Section 15 of Chapter 358, Session Laws of 1993; and
(31) Chapter 411, Session Laws of 1993.

(b) Nothing in this section affects any ordinance adopted under the authority of any act repealed by subsection (a) of this section prior to the effective date of this section.

Sec. 4. (a) Effective January 1, 1995, Chapter 455, Session Laws of 1987, as amended by Chapter 271, Session Laws of 1993, is repealed as to Forsyth County and municipalities located in that county.

(b) Nothing in this section affects any ordinance adopted under the authority of the act repealed by subsection (a) of this section prior to the effective date of this section.

Sec. 5. (a) This act becomes effective January 1, 1994, except that as to any city or county, it becomes effective at any time between the date of ratification of this act and January 1, 1994 if the city or county, as appropriate, adopts an ordinance placing it into effect at such earlier date. Adoption of such ordinance is subject to the procedural requirements of G.S. 160A-364 or G.S. 153A-323, as appropriate, but not to any procedural requirement of the zoning ordinance for adoption of amendments to the zoning ordinance. The ordinance may provide for different dates of applicability based on the stage of the zoning classification action on the effective date.

If the city or county is subject to a local act repealed by Section 3 of this act, the ordinance prevails over some or all of the local act if the ordinance so provides.

(b) This section does not apply to Forsyth County or municipalities located within that county.

Sec. 6. (a) This act becomes effective January 1, 1995 as to Forsyth County or any municipality located within that county, but it becomes effective at any time between the date of ratification of this act and January 1, 1995 if the municipality or Forsyth County, as appropriate, adopts an ordinance placing it into effect at such earlier date. Adoption of such ordinance is subject to the procedural requirements of G.S. 160A-364 or G.S. 153A-323, as appropriate, but not to any procedural requirement of the zoning ordinance for adoption of amendments to the zoning ordinance. The ordinance may provide for different dates of applicability based on the stage of the zoning classification action on the effective date.

The ordinance prevails over some or all of Chapter 455, Session Laws of 1987, as amended by Chapter 271, Session Laws of 1993, if the ordinance so provides.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 982 **CHAPTER 470**

AN ACT TO PERMIT INCREASED WEIGHTS FOR HAULING AGRICULTURAL CROPS WITHIN THIRTY-FIVE MILES OF THE FARM WHERE THEY WERE GROWN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(c) is amended by adding a new subdivision to read:

"(12) A vehicle that meets one of the following descriptions and is hauling agricultural crops within 35 miles of the farm where they were grown:

a. Has a gross weight of more than 88,000 pounds, a single axle weight of no more than 22,000 pounds, and a tandem axle weight of no more than 42,000 pounds.

b. Is a five-axle combination with a gross weight of no more than 88,000 pounds.

c. Is a four-axle combination with a tandem axle weight of no more than 42,000 pounds."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 60 **CHAPTER 471**

AN ACT TO IMPOSE AN ADVANCE DISPOSAL TAX ON NEW WHITE GOODS, TO REQUIRE EACH COUNTY TO PROVIDE FOR THE MANAGEMENT OF DISCARDED WHITE GOODS, AND TO PROVIDE FOR THE REMOVAL OF CHLOROFLUOROCARBON REFRIGERANTS FROM WHITE GOODS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-290(a) is amended by adding a new subdivision in the appropriate alphabetical order to read:

"(1b) 'Chlorofluorocarbon refrigerant' means any of the following when used as a liquid heat transfer agent in a mechanical refrigeration system: carbon tetrachloride, chlorofluorocarbons, halons, or methyl chloroform."

Sec. 2. G.S. 130A-290(a)(44) reads as rewritten:

"(44) 'White goods' includes ~~inoperative and discarded~~ refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes

dryers, and other similar domestic and commercial large appliances."

Sec. 3. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 5C.

"White Goods Disposal Tax.

"*§ 105-187.20. Definitions.*

The definitions in G.S. 105-164.3 apply to this Article, except that the term 'sale' does not include lease or rental, and the following definitions apply to this Article:

(1) Chlorofluorocarbon refrigerant. -- Defined in G.S. 130A-290(a).

(2) White goods. -- Defined in G.S. 130A-290(a).

"*§ 105-187.21. Tax imposed.*

A privilege tax is imposed on a white goods retailer at a flat rate for each new white good that is sold by the retailer. An excise tax is imposed on a new white good purchased outside the State for storage, use, or consumption in this State. The rate of the privilege tax and the excise tax is five dollars ($5.00) if the new white good does not contain chlorofluorocarbon refrigerants and is ten dollars ($10.00) if the new white good contains chlorofluorocarbon refrigerants. These taxes are in addition to all other taxes.

"*§ 105-187.22. Administration.*

The privilege tax this Article imposes on a white goods retailer is an additional State sales tax and the excise tax this Article imposes on the storage, use, or consumption of a new white good in this State is an additional State use tax. Except as otherwise provided in this Article, these taxes shall be collected and administered in the same manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under Article 5 of this Chapter, the additional State sales tax paid when a new white good is sold at retail is a credit against the additional State use tax imposed on the storage, use, or consumption of the same white good.

"*§ 105-187.23. Exemptions and refunds.*

(a) Exemptions. -- Except for the exemption provided in G.S. 105-164.13(17), the exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article.

(b) Refunds. -- The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article. A person who buys at least 50 new white goods of any kind in the same sale or purchase may obtain a refund equal to sixty percent (60%) of the amount of tax imposed by this Article on the white goods when all of the white goods purchased are to be placed in new or remodeled dwelling units that are located in this State and do not contain the kind of white goods

purchased. To obtain a refund, a person must file an application for a refund with the Secretary. The application must contain the information required by the Secretary, be signed by the purchaser of the white goods, and be submitted by the date set by the Secretary.

"§ *105-187.24. Use of tax proceeds.*

The Secretary shall distribute the taxes collected under this Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department.

Each quarter, the Secretary shall credit five percent (5%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax proceeds to the White Goods Management Account. The Secretary shall distribute the remaining seventy-five percent (75%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Planning Officer.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

Sec. 4. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2D. Management of Discarded White Goods.

"§ *130A-309.80. Findings and purpose.*

The General Assembly finds that white goods are difficult to dispose of, that white goods that contain chlorofluorocarbon refrigerants pose a danger to the environment, and that it is in the best interest of the State to require that chlorofluorocarbon refrigerants be removed from discarded white goods. This Part therefore provides for the management of discarded white goods.

"§ *130A-309.81. Management of discarded white goods; additional fee prohibited.*

(a) Duty. -- Each county is responsible for providing at least one site for the collection of discarded white goods. It must also provide for the disposal of discarded white goods and for the removal of chlorofluorocarbon refrigerants from white goods. A county may contract with another unit of local government or a private entity in accordance with Article 15 of Chapter 153A of the General Statutes to

provide for the management of discarded white goods or for the removal of chlorofluorocarbon refrigerants from white goods.

(b) Restrictions. -- A unit of local government or a contracting party may not charge a disposal fee for the disposal of white goods that is in addition to the fee charged for the disposal of any other type of municipal solid waste. A white good may not be disposed of in a landfill, an incinerator, or a waste-to-energy facility.

(c) Plan. -- Each county shall establish written procedures for the management of white goods. The county shall include the procedures in any solid waste management plan required by the Department under this Article.

"§ *130A-309.82. Use of disposal tax proceeds by counties.*

Article 5C of Chapter 105 of the General Statutes imposes a tax on new white goods to provide funds for the management of discarded white goods. A county may use proceeds of the tax distributed to it under that Article only for the management of discarded white goods.

"§ *130A-309.83. White Goods Management Account.*

The White Goods Management Account is established within the Department. The Account consists of revenue credited to the Account from the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes.

The Department shall use revenue in the Account to make grants to units of local government to assist them in managing discarded white goods. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit to manage white goods, the severity of a unit's white goods management problem, and the effort made by a unit to manage white goods within the resources available to it.

A unit of local government is not eligible for a grant unless its costs of managing white goods for a six-month period preceding the date the unit files an application for a grant exceeded the amount the unit received during that period from the proceeds of the white goods disposal tax under G.S. 105-187.24. The Department shall determine the six-month period to be used in determining who is eligible for a grant. A grant to a unit may not exceed the unit's unreimbursed cost for the six-month period.

"§ *130A-309.84. Civil penalties for improper disposal.*

The Department may assess a civil penalty of not more than one hundred dollars ($100.00) against a person who, knowing it is unlawful, places or otherwise disposes of a discarded white good in a landfill, an incinerator, or a waste-to-energy facility. The Department may assess this penalty for the day the unlawful disposal occurs and each following day until the white good is disposed of properly.

The Department may assess a penalty of up to one hundred dollars ($100.00) against a person who, knowing it is required, fails to remove chlorofluorocarbon refrigerants from a discarded white good. The Department may assess this penalty for the day the failure occurs and each following day until the chlorofluorocarbon refrigerants are removed.

Civil penalties collected under this section shall be credited to the General Fund as nontax revenue.

"*§ 130A-309.85. Department to submit annual report on the management of white goods.*

The Department shall make an annual report to the Environmental Review Commission concerning the management of white goods. The report shall be submitted by October 1 of each year, shall cover the fiscal year ending on the preceding June 30, and shall include the following information:

(1) The amount of taxes collected and distributed under G.S. 105-187.24 during the period covered by the report.

(2) The cost to each county of managing white goods during the period covered by the report.

(3) The beginning and ending balances of the White Goods Management Account for the period covered by the report and a list of grants made from the Account for the period.

(4) Any other information the Department considers helpful in understanding the problem of managing white goods.

"*§ 130A-309.86. Effect on local ordinances.*

This Part preempts any local ordinance regarding the management of white goods that is inconsistent with this Part or the rules adopted pursuant to this Part. It does not preempt any local ordinance regarding the management of white goods that is consistent with this Part or rules adopted pursuant to this Part."

Sec. 5. G.S. 130A-309.12(b) reads as rewritten:

"(b) The Solid Waste Management Trust Fund shall consist ~~of:~~ of the following:

(1) Funds appropriated by the General ~~Assembly;~~ Assembly.

(2) Contributions and grants from public or private ~~sources; and~~ sources.

(3) Ten percent (10%) of the proceeds of the scrap tire disposal tax imposed under Article 5B of Chapter 105 of the General Statutes.

(4) Five percent (5%) of the proceeds of the white goods disposal tax imposed under Article 5C of Chapter 105 of the General Statutes."

Sec. 6. G.S. 130A-309.81(b), as enacted by this act, reads as rewritten:

"(b) Restrictions. -- A unit of local government or a contracting party may ~~not~~ charge a disposal fee for the disposal of white goods that is in addition to the fee charged for the disposal of any other type of municipal solid waste. A white good may not be disposed of in a landfill, an incinerator, or a waste-to-energy facility."

Sec. 7. G.S. 130A-309.82 and G.S. 130A-309.83, as enacted by this act, are repealed.

Sec. 8. G.S. 130A-309.12(b)(4), as enacted by this act, is repealed.

Sec. 9. G.S. 130A-309.85, as enacted by this act, reads as rewritten:

"§ *130A-309.85. Department to submit annual report on the management of white goods.*

The Department shall make an annual report to the Environmental Review Commission concerning the management of white goods. The report shall be submitted by October 1 of each year, shall cover the fiscal year ending on the preceding June 30, and shall include ~~the following information:~~

~~(1) The amount of taxes collected and distributed under G.S. 105-187.24 during the period covered by the report.~~

~~(2) The~~ the cost to each county of managing white goods during the period covered by the ~~report.~~

~~(3) The beginning and ending balances of the White Goods Management Account for the period covered by the report and a list of grants made from the Account for the period.~~

~~(4) Any~~

report, the additional fees on white goods collected by each county during the period covered by the report, and any other information the Department considers helpful in understanding the problem of managing white goods."

Sec. 10. G.S. 105-187.24, as enacted by this act, reads as rewritten:

"§ *105-187.24. Use of tax proceeds.*

The Secretary shall distribute the ~~taxes~~ net tax proceeds collected under this ~~Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department.~~

~~Each quarter, the Secretary shall credit five~~ Article on a quarterly basis as follows:

(1) Five percent (5%) ~~of the net tax proceeds~~ to the Solid Waste Management Trust ~~Fund and shall credit twenty~~ Fund.

(2) Twenty percent (20%) ~~of the net tax proceeds~~ to the White Goods Management Account. ~~The Secretary shall distribute the remaining seventy-five~~

(3) Seventy-five percent (75%) ~~of the net tax proceeds~~ among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Planning Officer.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

Sec. 11. Sections 1 through 5 of this act and this section become effective January 1, 1994. Section 3 of this act expires July 1, 1998. Section 6 of this act becomes effective July 1, 1998. Sections 7, 8, and 9 of this act become effective July 1, 1999. Section 10 of this act becomes effective January 1, 1995.

The repeal of the tax imposed by Section 3 of this act does not affect the rights or liabilities of the State, a taxpayer, or another person that arose during the time the tax was in effect. The first report submitted by the Department to the Environmental Review Commission under G.S. 130A-309.85, as enacted by this act, shall cover the period from January 1, 1994, to June 30, 1994.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 501 **CHAPTER 472**

AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX ON BUSINESSES IN THE COUNTY THAT ARE NOT SUBJECT TO A MUNICIPAL OCCUPANCY TAX AND TO SET THE MAXIMUM ROOM OCCUPANCY TAX RATE FOR ACCOMMODATIONS FURNISHED IN AVERY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Occupancy tax.

(a) *Authorization and Scope.*

The Avery County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any

room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and is not subject to a room occupancy tax levied by a municipality. This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The occupancy tax rate payable on accommodations furnished within Avery County may not exceed six percent (6%).

(b) *Collection.*

Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount equal to the discount the State allows the operator for collecting State sales and use taxes.

(c) *Administration.*

The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) *Penalties.*

A person, firm, corporation, or association who fails or refuses to file the return required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The board of commissioners has the same authority to waive the penalties for a room occupancy tax that

the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(e) *Distribution and Use of Tax Revenue.*

Avery County shall use at least two-thirds of the net proceeds of the occupancy tax revenue to promote travel and tourism in Avery County and shall spend the remainder on tourism-related expenditures. The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed seven percent (7%) of the amount collected.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that are designed to increase the use of lodging facilities in a county or to attract tourists or business travelers to the county and expenditures incurred by the county in collecting the tax. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the board of commissioners, will facilitate and support tourism.

(f) *Effective Date of Levy.*

A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) *Repeal.*

A tax levied under this section may be repealed by a resolution adopted by the Avery County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 1003 **CHAPTER 473**

AN ACT TO REQUIRE THAT A PUBLIC HEARING BE HELD PRIOR TO THE APPROVAL OF AN APPLICATION FOR A NEW PERMIT, THE RENEWAL OF A PERMIT, OR A SUBSTANTIAL AMENDMENT TO A PERMIT FOR A SANITARY LANDFILL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-294(a)(4) reads as rewritten:

"(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. No application for a new permit, the renewal of a permit, or a substantial amendment to a permit shall be granted for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission for Health Services, without the Department receiving the prior approval for ~~such~~ the new permit, renewal of the permit, or substantial amendment to the permit from the county where it is to be located, except if it is to be located within the corporate limits or extraterritorial jurisdiction under Article 19 of Chapter 160A of the General Statutes, of a city as defined in G.S. 160A-1(2), from the city where it is to be located or whose jurisdiction it is in. No permit shall be granted for a solid waste management facility having discharges which are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans which will be required for the applicant to obtain a permit.

b. The issuance of permits for sanitary landfills operated by local governments is exempt from the environmental impact statements required by Article 1 of Chapter 113A of the General Statutes, entitled the North Carolina Environmental Policy Act of 1971. All sanitary landfill permits issued to local governments prior to July 1, 1984, are hereby validated

notwithstanding any failure to provide environmental impact statements pursuant to the North Carolina Environmental Policy Act of 1971;".

Sec. 2. G.S. 130A-294 is amended by adding a new subsection to read:

"(b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this section, a 'substantial amendment' means either:

a. An increase of ten percent (10%) or more in:

1. The population of the geographic area to be served by the sanitary landfill;
2. The quantity of solid waste to be disposed of in the sanitary landfill; or
3. The geographic area to be served by the sanitary landfill.

b. A change in the categories of solid waste to be disposed of in the sanitary landfill or any other change to the application for a permit or to the permit for a sanitary landfill that the Commission or the Department determines to be substantial.

(2) Within 10 days after receiving an application for a permit, for the renewal of a permit, or for a substantial amendment to a permit for a sanitary landfill, the Department shall notify the clerk of the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located and, if the sanitary landfill is proposed to be located or is located within a city, the clerk of the governing board of the city, that the application has been filed and shall file a copy of the application with the clerk. Prior to the issuance of a permit, the renewal of a permit, or a substantial amendment to a permit, the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall conduct a public hearing when sufficient public interest exists. The board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall provide adequate notice to the public of the public hearing and shall specify the procedure to be followed at the public hearing."

Sec. 3. This act is effective upon ratification and applies to any application for a permit, the renewal of a permit, or a substantial amendment to a permit filed on or after the date this act becomes effective.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 187 **CHAPTER 474**

AN ACT REQUIRING CERTAIN DETAIL IN THE DECISIONS AND REPORTS OF THE OSHA REVIEW BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-135(i) reads as rewritten:

"(i) A hearing examiner appointed by the chairman of the Board shall hear, and make a determination upon, any proceeding instituted before the Board and may hear any motion in connection therewith, assigned to ~~such~~ the hearing examiner, and shall make a report of ~~any such~~ the determination which constitutes ~~his~~ the hearing examiner's final disposition of the proceedings. A copy of the report of the hearing examiner shall be furnished to the Director and all interested parties involved in any appeal or any proceeding before the hearing examiner for ~~his~~ the hearing examiner's determination. The report of the hearing examiner shall become the final order of the Board 30 days from the date of ~~said~~ the report as determined by the hearing examiner, unless within ~~such~~ the 30-day period any member of the Board had directed that ~~such~~ the report shall be reviewed by the entire Board as a whole. Upon application for review of any report or determination of a hearing examiner, before the 30-day period expires, the Board shall schedule the matter for hearing, on the record, except the Board may allow the introduction of newly discovered evidence, or in its discretion the taking of further evidence upon any question or issue. All interested parties to the original hearing shall be notified of the date, time and place of ~~such~~ the hearing and shall be allowed to appear in person or by attorney at ~~such~~ the hearing. Upon review of ~~said~~ the report and determination by the hearing examiner the Board may adopt, modify or vacate the report of the hearing examiner and notify the interested parties. The report of the hearing examiner, and the report, decision, or determination of the Board upon review shall be in writing and shall include findings of fact, conclusions of law, and the reasons or bases for them, on all the material issues of fact, law, or discretion presented on the record. The report, decision or determination of the Board upon review shall be final unless further appeal is made to the courts under the provisions of Chapter 150B of

the General Statutes, as amended, entitled: 'Judicial Review of Decisions of Certain Administrative Agencies.'"

Sec. 2. G.S. 95-138(a) reads as rewritten:

"(a) Any employer who willfully or repeatedly violates the requirements of this Article, any standard, rule or order promulgated pursuant to this Article, or regulations prescribed pursuant to this Article, may upon the recommendation of the Director to the Commissioner be assessed by the Commissioner a civil penalty of not more than seventy thousand dollars ($70,000) and not less than five thousand dollars ($5,000) for each willful violation. Any employer who has received a citation for a serious violation of the requirements of this Article or any standard, rule, or order promulgated under this Article or of any regulation prescribed pursuant to this Article, shall be assessed by the Commissioner a civil penalty of up to seven thousand dollars ($7,000) for each ~~such~~ serious violation. If the violation is adjudged not to be of a serious nature, then the employer may be assessed a civil penalty of up to seven thousand dollars ($7,000) for each ~~such~~ nonserious violation. Any employer who fails to correct a violation for which a citation has been issued under this Article within the period allowed for its correction (which period shall not begin to run until the date of the final order of the Board in the case of any appeal proceedings in this Article initiated by the employer in good faith and not solely for the delay or avoidance of penalties), may be assessed a civil penalty of not more than seven thousand dollars ($7,000). ~~Such~~ The assessment shall be made to apply to each day during which ~~such~~ the failure or violation continues. Any employer who violates any of the posting requirements, as prescribed under the provision of this Article, shall be assessed a civil penalty of not more than seven thousand dollars ($7,000) for ~~such~~ the violation. The Commissioner upon recommendation of the Director, or the Board in case of an appeal, shall have authority to assess all civil penalties provided by this Article, giving due consideration to the appropriateness of the penalty with respect to the following factors:

(1) Size of the business of the employer being charged,
(2) The gravity of the violation,
(3) The good faith of the ~~employer~~ employer, and
(4) The record of previous ~~violations.~~ violations; provided that for purposes of determining repeat violations, only the record within the previous three years is applicable.

The Commissioner shall adopt uniform standards which the Commissioner, the Board, and the hearing examiner shall apply when considering the four factors for determining appropriateness of the penalty. The report of the hearing examiner and the report, decision, or determination of the Board on appeal shall specify the standards

applied in determining the reduction or affirmation of the penalty assessed by the Commissioner."

Sec. 3. This act is effective upon ratification and applies to citations issued on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 639 **CHAPTER 475**

AN ACT TO PERMIT TEACHER ASSISTANTS AND OTHER INSTRUCTIONAL PERSONNEL WHO DO NOT REQUIRE A SUBSTITUTE TO TAKE VACATION LEAVE WHEN STUDENTS ARE IN ATTENDANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-302(a)(1) reads as rewritten:

"(1) Academic Teachers. -- Regular state-allotted teachers shall be employed for a period of 10 calendar months. Salary payments to regular state-allotted teachers shall be made monthly at the end of each calendar month of service: Provided, that teachers employed for a period of 10 calendar months in year-round schools shall be paid in 12 equal installments: Provided further, that any individual teacher who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. Such request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said local school administrative unit; nor shall such payment apply to any teacher who is employed for a period of less than 10 months. Included within the 10 calendar months employment shall be annual vacation leave at the same rate provided for State employees, computed at one twelfth (1/12) of the annual rate for State employees for each calendar month of employment; which shall be provided by each local board of education at a time when students are not scheduled to be in regular attendance. However, vacation leave for instructional personnel who do not require a substitute shall not be restricted to days that students are not in attendance. Included within the 10 calendar months employment each local board of education shall designate the same or an

equivalent number of legal holidays occurring within the period of employment for academic teachers as those designated by the State Personnel Commission for State employees; on a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, a teacher may elect not to report due to hazardous travel conditions and to take ~~one of his~~ an annual vacation ~~days~~ day or to make up the day at a time agreed upon by the employee and ~~his~~ the employee's immediate supervisor or principal. Within policy adopted by the State Board of Education, each local board of education shall develop rules and regulations designating what additional portion of the 10 calendar months not devoted to classroom teaching, holidays, or annual leave shall apply to service rendered before the opening of the school term, during the school term, and after the school term and to fix and regulate the duties of state-allotted teachers during said period, but in no event shall the total number of workdays exceed 200 days. Local boards of education shall consult with the employed public school personnel in the development of the 10-calendar-months schedule."

Sec. 2. G.S. 115C-316(a)(3) reads as rewritten:

"(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. The first 10 days of annual leave earned by a 10- or 11-month employee during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Ten- or 11-month employees may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any of these employees with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by these employees ~~will~~ shall be upon the authorization of their immediate supervisor and under policies established by the local board of education. Vacation leave for instructional personnel who do not require a substitute shall not be restricted to days that students are not in attendance. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when

separated from service due to resignation, dismissal, reduction in force, death or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

Sec. 3. This act becomes effective August 1, 1993.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 781 **CHAPTER 476**

AN ACT TO PERMIT THE CITY OF DURHAM TO PROCEED WITH CONDEMNATION OF REAL PROPERTY WHEN OWNERSHIP IS TRANSFERRED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-40 reads as rewritten:

"§ *40A-40. Notice of action.*

Not less than 30 days prior to the filing of a complaint under the provisions of G.S. 40A-41, a public condemnor listed in G.S. 40A-3(b) or (c) shall provide notice to each owner (whose name and address can be ascertained by reasonable diligence) of its intent to institute an action to condemn property. (The notice shall be sent to each owner by certified mail, return receipt requested. The providing of notice shall be complete upon deposit of the notice enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service. Notice by publication is not required. Notice to an owner whose name and/or address cannot be ascertained by reasonable diligence is not required in any manner.)

The notice shall contain a general description of the property to be taken and of the amount estimated by the condemnor to be just compensation for the property to be condemned. The notice shall also state the purpose for which the property is being condemned and the date condemnor intends to file the complaint.

An owner who receives a notice of the city's intent to institute an action shall disclose the notice to any subsequent purchaser if the transfer of the property is made between the receipt of the notice and

the filing of the complaint. An owner who fails to disclose the notice shall be guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars ($100.00). Any contract for purchase for sale between the owner and any subsequent purchaser shall be voidable if any owner fails to make the disclosure required by this section prior to transfer of the property.

Where the condemnor has complied with the applicable provisions of this section and ownership of the property changes before the complaint is filed, the condemnor is not required to provide notice pursuant to this section to the new owners as a prerequisite to filing the complaint."

Sec. 2. This act applies to the City of Durham only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 814 **CHAPTER 477**

AN ACT TO PROVIDE THAT MECKLENBURG COUNTY PARK RANGERS MAY ACT AS SPECIAL PEACE OFFICERS ON PROPERTY OWNED OR LEASED BY THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. A person serving as a Mecklenburg County park ranger shall have: (i) the status of a special peace officer, (ii) all powers vested in law enforcement officers by statute or common law, and (iii) general subject matter jurisdiction to enforce the ordinances and regulations of the City of Charlotte as the city council may direct on all property owned or leased by the City of Charlotte wherever located. These special officers have and may exercise all the powers of peace officers generally upon property owned or leased by the City of Charlotte upon the request of the City of Charlotte. This section shall only apply to those park rangers that have the same or equivalent training as a Charlotte city policeman or Mecklenburg County deputy sheriff.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 815 **CHAPTER 478**

AN ACT AUTHORIZING VARIOUS COUNTIES TO ASSIST THOROUGHFARE PLAN IMPLEMENTATION.

The General Assembly of North Carolina enacts:

Section 1. A county may expend funds, not otherwise limited as to use by law, and may exercise the power of eminent domain, following procedures authorized to counties by general law, for the purpose of acquiring land or rights-of-way for thoroughfare construction and improvement projects which have been included in:

(1) A Department of Transportation annual construction program or a multiyear transportation improvement program;

(2) A roadway corridor official map adopted by the Board of Transportation or a municipal governing board;

(3) A comprehensive street system plan, collector street plan, or thoroughfare plan adopted by local governments or their planning agencies; or

(4) A transportation improvement plan adopted by a metropolitan planning organization.

Sec. 2. A county may accept donations and dedications of land or rights-of-way for the construction and improvement of streets, highways, or other thoroughfares included in the official plans and programs listed in Section 1 of this act.

Sec. 3. A county may, pursuant to the authority of G.S. 160A-461, for interlocal undertakings, enter into agreements with municipal governments in the county to provide funding assistance to them for the purpose of acquiring land or rights-of-way for the design, construction, or improvement of streets, highways, or other thoroughfares included in the official plans or programs listed in Section 1 of this act.

Sec. 4. Any land or rights-of-way acquired by a county, pursuant to this act, shall, prior to use for street, highway, or thoroughfare construction or improvement, be transferred to the governmental agency (Department of Transportation or municipality) which is carrying out the construction or improvement.

Sec. 5. Nothing in this act shall be construed to authorize a county to undertake actual construction or improvement of streets, highways, or thoroughfares.

Sec. 5.1. This act applies only to Burke, Cabarrus, and Mecklenburg Counties.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 888 **CHAPTER 479**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF ENFIELD.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Enfield is revised and consolidated to read:

"TOWN CHARTER.

"CHAPTER I.

"INTRODUCTION.

"Section 1-1. *Enfield to Remain Body Politic and Corporate.* The inhabitants of the Town of Enfield as the boundaries and limits of the said Town are herein established, shall be and constitute as heretofore they have been, a body politic, incorporated under and to be known by the name and style of the 'Town of Enfield', with such powers, rights, and duties as are herein provided or as are provided by general law.

"Sec. 1-2. *Corporate Limits.* The corporate limits of the Town of Enfield are as follows: Beginning at a point on the northerly side of East Franklin Street, said point being located exactly twenty-five hundred feet easterly down said street from the center of the southbound (original) track of the Atlantic Coast Line Railroad; thence south forty-two degrees thirteen minutes sixteen seconds west (calling as of July 1, 1986) and in a line parallel with and twenty-five hundred feet easterly from said railroad four thousand three hundred twenty three and forty one hundredths feet to an iron stake located on map 129 lot 31; thence north forty-seven degrees forty-six minutes forty-four seconds west (calling as of July 1, 1986) along the southerly edge of Randolph Street and beyond the end of said street for a total distance of forty-eight hundred feet to an iron stake; thence north forty-two degrees thirteen minutes sixteen seconds east (calling as of July 1, 1986) one thousand ninety-five and thirty-three one hundredths feet to an iron stake located approximately one hundred fifty feet westerly from the western edge of Holliday Drive; thence north seven degrees forty-five minutes fourteen seconds west (calling as of July 1, 1986) eight hundred fifty-six and twenty-eight one hundredths feet to an iron stake at the southerly edge of the right-of-way of N.C. Highway 481; thence north seventy-eight degrees forty-five minutes fifty-three seconds east along the southerly edge of N.C. Highway 481 (calling as of July 1, 1986) six hundred seventy-seven and ninety-six one hundredths feet to an iron stake; thence crossing said highway and running along the easterly edge of the Enfield-Ringwood Road (N.C. Secondary Road No. 1002) north sixty-four degrees eleven minutes fifty-four seconds west (calling as of July 1, 1986) four

hundred forty-one and forty-eight one hundredths feet to a ditch; thence continuing along the easterly edge of the right-of-way of said Enfield-Ringwood Road (N.C. Secondary Road No. 1002) north sixty-four degrees twelve minutes fifteen seconds west (calling as of July 1, 1986) seven hundred thirty-six and seventy one hundredths feet to an iron stake just beyond the road leading to the Enfield Middle School athletic field; thence leaving said Enfield-Ringwood Road (N.C. Secondary Road No. 1002) and running north 00 degrees forty-eight minutes fifty-four seconds west (calling as of July 1, 1986) four hundred seventy-four and thirty one hundredths feet to an iron stake just beyond the point that said road makes an easterly turn; thence north eighty-three degrees forty-one minutes fourteen seconds east (calling as of July 1, 1986) along the road leading to the back of the Enfield Middle School building one thousand four hundred eighty-five and seventy-seven one hundredths feet to an iron stake located just north of said school; thence north seventy-seven degrees twenty-six minutes fourteen seconds east (calling as of July 1, 1986) eleven hundred feet to a stake in Elmwood Cemetery; thence north eighty-seven degrees twenty-two minutes twenty seconds east (calling July 1, 1986) two hundred forty-seven and forty-four one hundredths feet to an iron stake at the westerly edge of Franklin Street (N.C. Secondary Road No. 1001); thence crossing said Franklin Street (N.C. Secondary Road No. 1001) and running north forty-two degrees thirteen minutes sixteen seconds east (calling as of July 1, 1986) one thousand seven hundred sixty-six and ten one hundredths feet to an iron stake; thence north seventy-one degrees thirty-eight minutes sixteen seconds east (calling as of July 1, 1986) one thousand thirty feet to an iron stake; thence south forty-seven degrees forty-six minutes forty-four seconds east (calling as of July 1, 1986) twenty-five hundred feet to an iron stake; thence south ten degrees thirteen minutes sixteen seconds west (calling as of July 1, 1986) three thousand two hundred twenty feet to the beginning.

"CHAPTER II.

"GENERAL ADMINISTRATION.

"Sec. 2-1. *Powers of Town Vested in Mayor and Commissioners; Mayor to Vote in Case of Tie; Mayor Pro Tem; Vacancies.*

(a) All powers conferred upon the Town of Enfield and the administration of the government thereof shall be exercised by and vested in a principal executive officer styled the Mayor, and five Commissioners, who shall serve in a legislative capacity and who are designated the Board of Town Commissioners. All elections shall be nonpartisan with winners determined by a plurality.

(b) For purposes of Town elections, the Town is divided into two districts. District A consists of the area east of the CSX railroad

tracks Precinct No. 2 and District B consists of the area west of the railroad tracks.

(c) Elections for Commissioners shall be conducted as follows:

(1) Two Commissioners shall be elected to represent District A for four-year terms. One shall be elected in 1993 and every four years thereafter. The other shall be elected in 1995 and every four years thereafter. Only voters residing in District A shall be eligible to vote for these seats.

(2) Two Commissioners shall be elected to represent District B for four-year terms. Only voters residing in District B shall be eligible to vote for these seats. One shall be elected in 1993 and every four years thereafter. One shall be elected in 1995 and every four years thereafter.

(3) One Commissioner shall be elected at large by all the voters of the Town. That Commissioner shall be elected in 1995 and every four years thereafter.

(e) Commissioners presently on the Board are entitled to serve the remainder of their terms.

(f) Elections for Mayor shall be held in 1993 and every four years thereafter. All voters in the Town shall be eligible to vote for Mayor.

(g) The Mayor shall be the ex-officio Chairman of the Board of Town Commissioners and shall have a right to vote in all cases where there is a tie vote of the Board. The Board shall elect from its members a Mayor Pro Tem who shall perform the duties of the office of Mayor if for any reason the Mayor is absent or unable to perform those duties. If there is a vacancy in the office of Mayor, the Mayor Pro Tem shall hold the office of Mayor until the next regularly scheduled election for Town officers, at which time a new Mayor shall be elected to serve the remainder of the unexpired term.

(h) Whenever a vacancy occurs in the Board of Town Commissioners, the remaining members of the Board shall appoint a person to fill the vacancy for the remainder of the unexpired term. The person appointed to fill the vacancy must reside in the same District as the departing member.

(i) A majority of the Board shall constitute a quorum at any meeting.

"Sec. 2-2. *Mayor and Commissioners to Take Oath; Officers May Be Removed From Office by Board.* The Mayor and the Board of Town Commissioners of the Town of Enfield shall before they enter upon the duties of their offices, each take the oath prescribed for public officials of the State of North Carolina; and, in case any of the officers shall be guilty of misconduct, inability, or willful neglect of the performance of the duties of said office, the officer may be removed from office by the Board of Town Commissioners of the Town of

Enfield, after being given an opportunity to be heard in defense, in person or by counsel.

"Sec. 2-3. *Board May Appoint Officers.* The Board of Town Commissioners may employ or appoint any other official by whatever name designated as it may deem best for the better administration of the laws and ordinances of the Town and for the preservation and protection of the citizenry, the health, and the property of the Town. These officers may be required to execute a bond for the faithful performance of the duties of their respective offices in a sum fixed by the Board of Town Commissioners; the Board shall prescribe the terms of their offices and their duties and fix their salaries and compensation.

"Sec. 2-4. *Town Administrator: Appointments, Compensation, Powers, Duties.*

The Board of Town Commissioners shall appoint an officer whose title shall be Town Administrator and who shall be the head of the administrative branch of the Town government. The Town Administrator shall serve at the pleasure of the Board of Town Commissioners and shall receive such salary as the Board shall fix, but will be taken from the Pay Plan of the Town of Enfield. Additional compensation either in the form of travel allowances, deferred compensation, and professional affiliation dues shall be paid at the discretion of the Board of Town Commissioners of the Town of Enfield. As Chief Administrative Officer of the Town of Enfield, the Town Administrator has the following powers and duties:

(1) The Town Administrator reports to and is held directly accountable to the Enfield Board of Town Commissioners (as a unified political body).

(2) The Town Administrator's direct Supervisor will be the Mayor of Enfield, who, when questions and problems arise, will work directly with each other.

(3) The Town Administrator will receive a yearly personnel evaluation and job review by the full Board of Town Commissioners for the Town of Enfield within 30 days of his/her employment/anniversary date.

(4) The Town Administrator's salary may be adjusted accordingly as the Board of Commissioners deem necessary. Additional work or duties may be assigned as required with no consideration made for salary increases, should the Board so desire.

(5) All departments heads, including the Town Clerk, will report directly to the Town Administrator, and the Town Administrator shall be the individual charged with direct administrative responsibility to ensure that the operation of

the Town is managed in a professional manner. It shall be the responsibility of the Town Administrator to discipline, train, and evaluate Town Staff. Hiring and termination of department heads for any reason shall require prior Board approval.

(6) The Town Administrator shall hold department heads responsible for ensuring that each department is managed to promptly and efficiently complete regular and designated duties.

(7) The Town Administrator shall evaluate each department head of the Town of Enfield based on the job performance of the department and how well the department head has managed resources and personnel. This evaluation will be on an annual basis.

The Town Administrator shall be designated the Town Budget Officer and assigned the primary responsibility of compiling and programming the Town's Annual Budget for all funds.

The Board of Town Commissioners may appoint the Town Administrator to boards and committees where the presence and appointment of the Town Administrator would be in the best interest of the Town of Enfield and its citizens. This includes, but is not limited to, Economic Development Council, Regional L Council of Governments, and Halifax County Mayors and Managers Association.

"Sec. 2-5. *Town Clerk: Appointments, Duties.* The Board of Town Commissioners may employ a Clerk and, upon the recommendation by the Town Administrator, prescribe the term of office, duties, and fix salary. The Clerk may delegate a part of his duties to the Deputy Town Clerk and may also delegate to the various department heads the right to make purchases for their departments up to, but not in excess of, one hundred dollars ($100.00). The Clerk shall act as Secretary to the Board of Commissioners, and he shall also issue all licenses and permits granted by the Town, such as privilege, franchise, etc., and collect the same; list and compute all taxes; collect all water and light payments; act as purchasing agent for the Town of Enfield responsible for the procurement of all property, supplies, and material of whatever kind or nature, and when so purchased the bills therefor shall be processed in a manner to effect timely payments; and to perform such other duties as may be from time to time prescribed by the Town Administrator or the Board of Commissioners of the Town of Enfield.

"Sec. 2-6. *Town Attorney: Qualifications, Terms, Compensation, Duties.* The Board of Town Commissioners shall appoint a Town Attorney who shall be an attorney-at-law licensed to engage in the practice of law in North Carolina. It is not required that the designee

be a resident of the Town of Enfield during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Town Commissioners, Town Administrator, and all other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances and resolutions when requested to do so; to inspect and pass all agreements, contracts, franchises, and other instruments with which the Town may be concerned; to attend all meetings of the Board of Town Commissioners when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"Sec. 2-7. *Sundry Powers of Town.* The Town of Enfield is made a body politic and corporation by this act, and shall have perpetual succession, and may use a common seal, may sue and be sued; may contract and be contracted with; may plead and be impleaded in all courts and places and in all manner whatsoever; and, under such name and style of 'Town of Enfield', is hereby invested with all the property and rights of property which now belong to the corporation under any other corporate name or names heretofore used, and by this name may acquire and hold for the purpose of its government, welfare, and improvements, all such estates as may be devised, bequeathed, or conveyed to it; and may from time to time sell, dispose of, and invest as shall be deemed advisable by the proper authorities of the corporation; and may take, hold, and purchase land as may be needed for the corporate purposes of the said Town, including the right to acquire property for utility easements and constructions; and may acquire by purchase or condemnation any real estate in connection therewith, and also rights-of-way which may be necessary for the erection of poles, wires, etc., and for the purpose of laying pipes, sewer lines, etc.; and shall have the power of eminent domain and the right to condemn private property for public use when necessary to carry into effect the provisions of this Charter; and shall have the power to open, change, widen, discontinue streets when promotive of the interest of the public; and shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, narrow, cleanse, care for, sell, pave, supervise, maintain, improve, establish, and ornament the streets, alleys, highways, sidewalks, squares, parks, public grounds and places, and to vacate or close the same; to put drains and sewers herein; to provide for and regulate opening thereof, the digging therein, and the interference therewith in any manner whatsoever; and may place therein pipes, poles, wires, fixtures, and

appliances of every kind, whether on, above, or beneath the surface thereof; to regulate and control the use thereof by any and all persons, animals, and vehicles, in whatsoever way and purposes; to prevent, abate, and remove encroachments, obstructions, pollution, or other litter therein; to open new streets and highways and sidewalks, and to make and enforce any and all regulations in respect thereof as the Board of Town Commissioners of the said Town may deem proper or expedient to promote and ensure the health, comfort, safety, and convenience of the inhabitants or property and public of the said Town.

"Sec. 2-8. *Board of Commissioners May Pass Ordinances.* The Board of Town Commissioners shall have full power and authority to make ordinances, bylaws, rules, and regulations for the better government of the Town of Enfield, not inconsistent with the laws of the State of North Carolina, as the Board may deem necessary and in the interest of the public welfare, and may enforce them by imposing fines and penalties on such as violate them; and may compel the performance of the duties imposed upon others by suitable penalties.

"Sec. 2-9. *Duties of the Mayor.* The Mayor shall be the principal executive officer of the Town with duties as follows:

(1) Preside at meetings of the Board of Town Commissioners.
(2) Vote at meetings of the Board of Town Commissioners when there is a tie.
(3) Appoint committees when needed to assist in carrying out directives or in making investigations requested by the Board of Town Commissioners.
(4) Suggest programs and projects to the Board of Town Commissioners and make recommendations concerning all phases of Town business.
(5) See that all duties of various Town officers are faithfully performed.
(6) In time of danger or emergencies, he may take command of the police and maintain order and enforce laws, and for this purpose, may deputize such assistant policemen as may be necessary.
(7) Do any and all other acts customarily done and performed by the Mayor under a Mayor-Commissioner form of government of the type provided for by this act.

"Sec. 2-10. *Duties of the Mayor Pro Tem.* The Board of Town Commissioners shall elect from its members, a majority of the members present, a Mayor Pro Tem. During the absence or inability of the Mayor to act, the Mayor Pro Tem shall possess the powers and discharge the duties of the Mayor. While serving in the place of the

Mayor, the Mayor Pro Tem may vote as a member of the Board of Town Commissioners.

"Sec. 2-11. *Matters Not Provided For in Charter Governed by State Law.* All matters pertaining to the administration of the government of the Town of Enfield, and not provided for in this act, shall be governed by the general laws of the State of North Carolina.

"CHAPTER III.

"FINANCIAL.

"ARTICLE I.

"BOARD OF COMMISSIONERS.

"Sec. 3-1. *Board of Commissioners to Maintain Accounting System for Town.* The Board of Town Commissioners shall devise and maintain an accounting system which shall exhibit the condition of the Town assets and liabilities, the value of its several properties and state of its several funds. Said accounting system maintained shall conform to those employed by progressive business concerns and approved by the best usage, and shall conform to the requirements set out in the Local Government Budget and Fiscal Control Act, as amended, in G.S. 159-7 *et seq.* and Chapter 160A of the General Statutes; the Board of Town Commissioners shall have the power to employ accountants to assist in devising and maintaining said accounting system.

"Sec. 3-2. *Board of Town Commissioners to Levy and Collect Taxes.* The Board of Town Commissioners shall annually levy and cause to be collected for municipal purposes an ad valorem tax not exceeding the limit expressed in G.S. 160A-209 on all real and personal property within the municipality and for said purpose shall annually set a tax rate. In addition thereto the Board of Town Commissioners may, in its discretion, levy annually on all taxable property within the municipality any special taxes authorized under Chapter 160A of the General Statutes. The Board of Town Commissioners may annually lay a tax on all trades, professions, and franchises carried on or enjoyed within the municipality, unless prohibited from doing so by State law. All taxes levied by the municipality shall be uniform as to each class of property taxed, except property exempted by the constitution. The Board of Town Commissioners may in their discretion use copies of the tax scrolls taken and prepared by Halifax County for the purpose of levying ad valorem taxes on real estate and personal property within the municipality and also for the purpose of levying dog taxes. In the levying and collecting of taxes the municipality shall have all of the rights and privileges given to and provided for municipalities in North Carolina under Chapters 105 and 160A of the General Statutes and shall adhere to and carry out all of

the duties and procedures required of municipalities in those Chapters of the General Statutes.

"ARTICLE II.

"TREASURER/FINANCE OFFICER AND TAX COLLECTOR.

"Sec. 3-4. *Town Treasurer/Finance Officer and Tax Collector.* The Board of Town Commissioners shall appoint a Town Treasurer/Finance Officer and a Town Tax Collector, but both positions may be held by one person. The person or persons so appointed shall be bonded in an amount to be set by the Board of Town Commissioners.

"ARTICLE III.

"GRANTING OF FRANCHISES.

"Sec. 3-5. *Town May Grant Franchises.* The Town of Enfield may grant franchises to companies who wish to provide services to the citizens when and if the type of franchise to be granted is authorized by State law. In granting the said franchises the Town must use the procedures set out in Chapter 160A of the General Statutes.

"CHAPTER IV.

"PUBLIC SAFETY

"ARTICLE I.

"POLICE.

"Sec. 4-1. *Board of Commissioners May Appoint a Chief of Police.* The Board of Town Commissioners may appoint a Chief of Police, prescribe the terms of office and duties, and fix the salary or compensations, which will be taken from the Pay Plan of the Town of Enfield. The Police Chief, who may be recommended by the Town Administrator, may be chosen from among the residents of the Town of Enfield or from any other place as the said Board may deem best; however, the Chief of Police may be required to establish Enfield residency. The officers assigned to the Chief of Police may execute all process and precepts issued to them, when properly directed, anywhere in the County of Halifax, and the officers may be required by the Board of Town Commissioners to execute a bond, in a sum fixed by said Board, for the faithful performance of the duties of their office.

"ARTICLE II.

"FIRE PROTECTION AND PREVENTION.

"Sec. 4-2. *The Town May Establish Fire Department or Contract for Fire Protection.* The Board of Town Commissioners may provide for the establishment, organization, equipment, and government of a fire company or companies, or, in their discretion, may contract with an existing volunteer fire department to provide the necessary fire protection within their municipality.

"CHAPTER V.

"MUNICIPALLY OWNED UTILITIES.

"Sec. 5-1. *Town May Own and Operate Electric, Gas, Water and Sewerage Systems and Maker Regulations for Said Operation.* The Town of Enfield may buy, own, construct, establish, maintain and operate systems of electricity, gas, sewerage, and water; and may make, regulate, and establish public wells, cisterns, hydrants, reservoir, pumping and filtering plants, pipe lines, sewerage disposal plants, stations, and standpipes anywhere within the Town or beyond the limits hereof, for the use of the Town, and may make such rules and regulations as it may deem proper for the management of said water, gas, electric, and sewer systems. The Town may require the owners, tenants, or occupants of all property which may be located upon or near any street or alley along which may extend any municipal sewer or water system to connect with the sewer and water systems, all water closets, bathrooms, privies, tubs, sinks, or drains located upon their respective property or premises, and upon failure to do so the owner, tenant, or occupant of said property may be fined or imprisoned, as provided by ordinance of the Town. The board of Town Commissioners may appoint and employ a Director of Public Works and Utilities whose duty it shall be to supervise the operation of any and all of the above systems and to supervise the maintenance of the streets and other public works carried on by the Town.

"CHAPTER VI.

"PUBLIC WORKS.

"Sec. 6-1. *The Town May Improve Streets and Sidewalks.* The Town of Enfield may grant and improve its public streets and sidewalks and may employ such person or persons as it may deem necessary for the purpose of constructing and improving said streets and sidewalks and may pave and improve the same in such manner and with such material as the Board of Town Commissioners may in their discretion deem best; and it may construct such drainage and gutters along the streets and across the sidewalks and through the lands of the abutting owners as the officials of the Town may deem to be the best interest of the public. Persons interfering in any way with such improvements or drainage or with the officers or employees of the Town while it works upon the same, shall be fined for each offense not more than fifty dollars ($50.00) or imprisoned not more than 30 days, as provided by ordinance of the Town.

"Sec. 6-2. *Town May Assess Abutting Property Owners One-half Cost of Streets and Sidewalks.* The Town of Enfield may charge the owners of abutting property one-half the cost of curbing and guttering and of paving and surfacing sidewalks and streets and the same shall be a specific lien upon said abutting property against all and every owner, mortgagee, trustee or lessee thereof, and if the said costs are not paid

within 90 days after the completion of the said work or if satisfactory arrangements have not been made under the provisions hereinafter contained, the same may be enforced and collected by suit instituted by the Town of Enfield in a Magistrates Court, a District Court, or the Superior Court, where the owners and other interested parties shall have the right to present their defense; and the issue raised shall be tried and the case disposed of according to the law and the course of practice of the court. The lien herein created shall follow the land, and the Town, in bringing the aforesaid suit to enforce same, may name subsequent owners, who are the owners of said property at the time the suit is brought, as defendants. The Town of Enfield may, if it so elects, use any other procedure to bring about the collection of aforesaid costs provided by the General Statutes of the State of North Carolina for the collection of municipal assessments.

"Sec. 6-3. *Eminent Domain and Condemnation of Land.* When, in the opinion of the governing body of the Town, lands are needed for public utilities, streets, sidewalks, parks, playgrounds, or municipal buildings, and the governing body is unable to acquire same by private purchase, condemnation of the same for public use may be made in the manner and under the procedure as is provided in Chapters 40A and 160A of the General Statutes.

"CHAPTER VII.

"PLANNING AND REGULATION OF DEVELOPMENT.

"Sec. 7-1. *Planning Committee, Zoning Ordinance, and Building Inspection.* The Town of Enfield may appoint a Planning Committee, Board, or Commission to plan for the organized growth and development of the Town. It shall be the duty of this committee to report its findings and recommendations to the Board of Town Commissioners. The Board of Town Commissioners may adopt, amend, or repeal a Town Zoning Ordinance and may authorize the Town Code Enforcement Officer to enforce its provisions and may appoint a Board of Adjustment to review any action taken by the said Code Enforcement Officer. The Board of Town Commissioners may adopt an ordinance requiring Building and Inspection Permits and authorizing the charging of a fee for same and the providing of a penalty for the construction of buildings without a permit. The Code Enforcement Officer shall inspect all new buildings and repairs for which permits are issued and shall have the authority to stop any construction when it is not being done according to law or when in his opinion it would be unsafe. He shall also have the authority to condemn any and all buildings that are in his opinion unsafe and a hazard to the public. In the event no Code Enforcement Officer is appointed by the Board of Town Commissioners or for any reason the Code Enforcement Officer's employment is terminated, the Code

Enforcement Officer's duty will be performed by the Halifax County Building Inspector's Office until such time that a Code Enforcement Officer is appointed. In the absence of the Board of Town Commissioners adopting a Town Building and Electric Code, the State Building and Electric Codes shall serve as the Building and Electric Codes for the Town of Enfield.

"Sec. 7-2. *Recreation.*

The Board of Town Commissioners may appropriate moneys for and operate a municipal recreation program including the establishment and maintenance of municipal parks. The municipal recreation program shall be operated as a department of the Town Staff. The program shall in all respects meet the requirements of and be operated in accordance with the provisions contained in Chapter 160A of the General Statutes entitled 'Cities and Towns'.

"Sec. 7-3. *Industrial Location.*

The Board of Town Commissioners may appropriate money from nontax funds to be used to finance a program designed to improve the economy of the Town by acquiring additional industries and may join with Halifax County and the other municipalities in said County in employing a person or persons to work with industrial prospects and attempt to persuade them to locate within the County. The Board of Town Commissioners may also appoint a committee, board, or commission of local citizens, who, under the guidance of the Board of Town Commissioners, will work toward locating industrial prospects and attempt to persuade them to locate in or near the Town of Enfield."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Enfield and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Sec. 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or acts validating official actions, proceedings, contracts, or obligations of any kind.

Sec. 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 165, Private Laws of 1860-61
Chapter 82, Private Laws of 1885
Chapter 146, Private Laws of 1897
Chapter 103, Private Laws of 1907
Chapter 89, Private Laws of 1909

Chapter 145, Private Laws of 1911
Chapters 46 and 73, Private Laws of 1919
Chapter 193, Private Laws of 1923
Chapter 56, Private Laws of 1933
Chapters 432 and 446, Session Laws of 1947
Chapter 714, Session Laws of 1949
Chapter 1171, Session Laws of 1951
Chapter 460, Session Laws of 1953
Chapters 25 and 747, Session Laws of 1955
Chapters 560 and 763, Session Laws of 1957
Chapters 162 and 249, Session Laws of 1959
Chapter 970, Session Laws of 1967
Chapter 1253, Session Laws of 1969
Chapter 310, Session Laws of 1981
Section 6.4 of Chapter 549, Session Laws of 1987.

Sec. 5. This act does not repeal the following acts:
Chapter 14, Private Laws of 1933
Chapter 357, Public-Local Laws of 1941
Chapters 750 and 751, Session Laws of 1967.

Sec. 6. This act does not revive any act previously repealed.

Sec. 7. The Mayor and Commissioners serving on the date of ratification of this act shall serve until the expiration of their terms. Thereafter those offices shall be filled as provided in Chapter II of the Charter contained in Section 1 of this act.

Sec. 8. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 9. All existing ordinances, resolutions, and other provisions of the Town of Enfield not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 10. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Sec. 11. If any provision or application of this act is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 12. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 890 **CHAPTER 480**

AN ACT TO ALLOW THE TOWN OF MIDDLESEX TO ANNEX A CERTAIN DESCRIBED TERRITORY TO THE CORPORATE LIMITS OF THE TOWN.

The General Assembly of North Carolina enacts:

Section 1. The Town of Middlesex by ordinance may extend its corporate limits to include the following described territory:

(a) Beginning at a point in the existing town limits in the northern R/W of Oppossum Rd., thence along said R/W in a northeasterly direction 1250', thence in a southerly direction 470' to a point, thence in a northeasterly direction 610', thence northwesterly 180', thence northeasterly 275', thence northwesterly 175' to a point in the southern R/W of Oppossum Rd., thence across said street 110' to a point in the northern R/W of said street, thence along said R/W in a southwesterly direction 415' to a point, thence northwesterly 230', thence northwesterly 160', thence southwesterly 140', thence northwesterly 170', thence southeasterly 300', thence southwesterly along the back of a row of lots that fronts on Oppossum Rd., for 1155', thence in a southerly direction 370' back to the point of beginning.

(b) Beginning at a point in the existing town limits in the southern R/W of O'pposum Rd. (S.R.-1220), thence along said R/W in a southwesterly direction 485', thence northwesterly 315', thence northeasterly 360', thence northwesterly 445', thence northeasterly 150' to a point in the southern R/W of the Norfolk & Southern railroad, then along said railroad westerly 290', thence northerly 660', thence westerly 865', thence northerly across S.R.-1123 (Rock Side Road) 980' to a point in the northern R/W line of U.S. 264 Business, thence along said R/W in an easterly direction 840' to a point, thence northwesterly 240', thence easterly 60', thence southerly 300' to a point in the northern R/W line of U.S. 264 Business, thence along said R/W southeasterly 140' to a point, thence northeasterly 100', thence easterly 140' thence southerly 175' to a point in the northern R/W line of Rockside Road, thence along said R/W easterly 635' to a point, thence northerly 510', thence easterly 600', thence easterly 600' to a point in the western R/W line of State Road 1127 (Children Home Road), thence north along said R/W 920' to a point, thence easterly 260', thence southerly 1910' to a point in the existing town limits, thence along said town limits back to the

point of beginning as follows, northwesterly 640', thence southwesterly 1730' to a point in the center of Norfolk & Southern railroad, thence westerly 610', thence south & southeasterly 635' to the point of beginning.

(c) Beginning at a point in the existing town limits and the northern R/W of Finch Ave. (U.S.-264 Bus.), thence along said R/W in an easterly direction 5120' to a point in the Middlesex extra territorial boundary, thence in a southerly direction across U.S.-264 and along the eastern property line of Fawn Industries 760' to a point in the southern R/W line of Norfolk-Southern railroad, thence along said railroad R/W in a northwesterly direction 4815' to the eastern R/W Jones Street, thence southerly along said R/W 1010' to a point in the southern R/W line of Bailey Rd. (S.R.-1101) thence northwesterly along said R/W 50', thence southerly 140', thence westerly 260' to a point in the eastern R/W line of Poplar St., thence southerly & westerly 390' to the southeast corner R/W of Poplar St. & S. Elm St., thence southerly along said R/W 270', thence westerly 100' to a point in the existing town limits, thence along said town limits in a northeasterly direction 1945' to the point of beginning.

All distances and directions are approximate.

Sec. 2. Prior to adoption of the ordinance, the governing board of the town must hold a public hearing. Notice shall be given by publication at least seven days prior to the public hearing in a newspaper having general circulation in the municipality. The notice shall contain either the description in Section 1 of this act, or a legible map of the area to be annexed. The provisions of Article 4A of Chapter 160A of the General Statutes do not apply to the ordinance, except for G.S. 160A-39.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 1102 **CHAPTER 481**

AN ACT TO CREATE THE PESTICIDE ENVIRONMENTAL TRUST FUND, TO BE FUNDED BY AN ASSESSMENT FOR EACH BRAND OR GRADE OF PESTICIDE REGISTERED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-468 reads as rewritten:

"§ *143-468. Disposition of ~~fees.~~ fees and charges.*

(a) Except as provided in subsection (b), all ~~All~~ fees and charges received by the Board under this Article shall be ~~deposited in~~ credited to the Department of Agriculture ~~General Fund Budget~~ for the

purpose of administration and enforcement of this ~~Article, with proper approved accounting procedures accounting for all expenditures and receipts.~~ Article.

(b) The Pesticide Environmental Trust Fund is established as a nonreverting account within the Department of Agriculture. The Department of Agriculture shall administer the Fund. The additional assessment imposed by G.S. 143-442(b) on the registration of a brand or grade of pesticide shall be credited to the Fund. The Department shall distribute money in the Fund as follows:

(1) Two and one-half percent (2.5%) to North Carolina State University Cooperative Extension Service to enhance its agromedicine efforts in cooperation with East Carolina University School of Medicine.

(2) Two and one-half percent (2.5%) to East Carolina University School of Medicine to enhance its agromedicine efforts in cooperation with North Carolina State University Cooperative Extension Service.

(3) Twenty percent (20%) to North Carolina State University, Department of Toxicology, to establish and maintain an extension agromedicine specialist position.

(4) Seventy-five percent (75%) to the Department of Agriculture for its environmental programs, as directed by the Board, including establishing a pesticide container management program to enhance its pesticide disposal program and its water quality initiatives."

Sec. 1.1. G.S. 143-442(a) reads as rewritten:

"(a) Every pesticide prior to being distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the office of the Board, and such registration shall be renewed annually before January 1 for the ensuing calendar year. Beginning in 1988, the Board may by rule adopt a system of staggered three-year registrations. The applicant for registration shall file with the Board a statement including:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant;

(2) The name of the pesticide;

(3) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it including directions for use;

(4) If requested by the Board, a full description of the tests made and the results thereof upon which the claims are based;

(5) In the case of renewal of registration, a statement with respect to information which is different from that furnished when the pesticide was last registered; ~~and~~

(6) A Material Safety Data Sheet for the ~~pesticide.~~ pesticide; and

(7) Any other information needed by the Board to determine the amount of annual assessment payable by the applicant."

Sec. 2. G.S. 143-442(b) reads as rewritten:

"(b) The applicant shall pay an annual registration fee of thirty dollars ($30.00) plus an additional annual assessment for each brand or grade of pesticide registered. The annual assessment shall be fifty dollars ($50.00) if the applicant's gross sales of the pesticide in this State for the preceding 12 months for the period ending September 30th were more than five thousand dollars ($5,000.00) and twenty-five dollars ($25.00) if gross sales were less than five thousand dollars ($5,000.00). An additional two hundred dollars ($200.00) delinquent registration penalty shall be assessed against the registrant for each brand or grade of pesticide which is marketed in North Carolina prior to registration as required by this Article. In the case of multi-year registration, the annual fee and additional assessment for each year shall be paid at the time of the initial ~~registration, provided that~~ registration. The Board shall give a pro rata refund of the registration fee ~~shall be made~~ and additional assessment to the registrant in the event that registration is canceled by the ~~North Carolina Pesticide~~ Board or by the United States Environmental Protection Agency."

Sec. 3. This act is effective upon ratification and applies to all applications for registration filed under G.S. 143-442 on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 8 **CHAPTER 482**

AN ACT TO PROHIBIT HEALTH CARE PROVIDERS FROM REFERRING PATIENTS TO HEALTH CARE GOODS OR SERVICES OFFERED BY ENTITIES IN WHICH THE REFERRING PROVIDER HAS AN OWNERSHIP INTEREST.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 28.

"Self-Referrals by Health Care Providers.

"§ *90-405. Definition.*

As used in this Article, the term

(1) 'Board' means any of the following boards created in Chapter 90 of this Article relating respectively to the professions of medicine, dentistry, optometry, osteopathy, chiropractic, nursing, podiatry, psychology, physical therapy, occupational therapy, speech and language pathology and audiology.

(2) 'Department' means the Department of Human Resources of the State of North Carolina.

(3) 'Designated health care services' means, and includes for purposes of this section, any health care procedure and service provided by a health care provider that is covered by or insured under any health benefit plan regulated by Chapter 58 of the General Statutes, any employee welfare benefit plan regulated by the Employee Retirement Income Security Act of 1974, any federal or State employee insurance program, Medicare or Medicaid.

(4) 'Entity' means any individual, partnership, firm, corporation, or other business that provides health care services.

(5) 'Fair market value' means the value of the rental property for commercial purposes not adjusted to reflect the additional value that one party (either the prospective lessee or lessor) would attribute to the property as a result of its proximity or convenience to sources of referrals or business.

(6) 'Group practice' means a group of two or more health care providers legally organized as a partnership, professional corporation, or similar association:

a. In which each health care provider who is a member of the group provides services including consultation, diagnosis, or treatment, through the joint use of shared facilities, equipment, and personnel;

b. For which substantially all the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and

c. In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(7) 'Health care provider' is any person who, pursuant to Chapter 90 of the General Statutes, is licensed, or is otherwise registered or certified to engage in the practice of any of the following: medicine, dentistry, optometry,

osteopathy, chiropractic, nursing, podiatry, psychology, physical therapy, occupational therapy or speech and language pathology and audiology.

(8) 'Immediate family member' means a health care provider's spouse or dependent minor child.

(9) 'Investment interest' means an equity or debt security issued by an entity, or a lease or retained interest in real property held by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, leases, options or contracts related to real property or other equity interests or debt instruments. 'Investment interest' and legal or beneficial interest shall not include any interest in:

a. Bonds or other debt instruments issued pursuant to the provisions of Chapter 159 of the General Statutes;

b. A written lease of real property entered into on or before January 1, 1990, for a term of five years or more or a written lease of real property for a term of one year or more, which fully describes the leased premises, the terms and conditions for the lease thereof, with the aggregate rental charge, set in advance, consistent with fair market value in arms-length transactions and not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties to the lease;

c. An employee's stock purchase, savings, pension, profit sharing or other similar benefit plan in which the investor does not direct investments;

d. Investment interests (including shares of stock, bonds, debentures, notes or other debt instruments) in any corporation that is listed for trading on the New York Stock Exchange, the American Stock Exchange, or is a national market system security traded under automated interdealer quotation system operated by the National Association of Securities Dealers and has, at the end of the corporation's most recent fiscal year, total assets exceeding fifty million dollars ($50,000,000), provided that one of the following requirements is satisfied:

1. The investment interests are purchased in a nonissuer transaction as permitted by G.S. 78A-17(3); or

2. The investment interests are issued in a transaction terminating a health care provider's legal,

beneficial, or investment interest in a privately held entity which such health care provider acquired before April 1, 1993, provided that such transaction is completed before July 1, 1995, and the health care provider liquidates the investment interests by July 1, 1997.

(10) 'Investor' means an individual or entity owning a legal or beneficial ownership or investment interest, directly or indirectly (including without limitation, through an immediate family member, trust, affiliate, or another entity related to the investor).

(11) 'Referral' means any referral of a patient for designated health care services, including, without limitation:

a. The forwarding of a patient by one health care provider to another health care provider or to an entity that provides any designated health care service; or

b. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health care services.

'Referral' does not mean any designated health care service or any referral to an entity for a designated health care service which is provided by, or provided under the personal supervision of, a sole health care provider or by a member of a group practice to the patients of that health care provider or group practice.

"§ 90-406. *Self-referrals prohibited.*

(a) A health care provider shall not make any referral of any patient to any entity in which the health care provider or group practice or any member of the group practice is an investor.

(b) No invoice or claim for payment shall be presented by any entity or health care provider to any individual, third-party payer, or other entity for designated health care services furnished pursuant to a referral prohibited under this Article.

(c) If an entity collects any amount pursuant to an invoice or claim presented in violation of this section, the entity shall refund such amount to the payor or individual, whichever is applicable, within 10 working days of receipt.

(d) Any health care provider or other entity that enters into an arrangement or scheme, such as a cross-referral arrangement that the health care provider or entity knows or should know is intended to induce referrals of patients for designated health care services to a particular entity and that, if the health care provider directly made referrals to such entity, would constitute a prohibited referral under this section, shall be in violation of this section.

"*§ 90-407. Disciplinary action and penalties.*

(a) Any violation of this Article shall constitute grounds for disciplinary action to be taken by the applicable Board pursuant to Chapter 90 of the General Statutes.

(b) Any health care provider who refers a patient in violation of G.S. 90-406(a), or any health care provider or entity who

(1) Presents or causes to be presented a bill or claim for service that the health care provider or entity knows or should know is prohibited by G.S. 90-406(b), or

(2) Fails to make a refund as required by G.S. 90-406(c),

shall be subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each such bill or claim, to be recovered in an action instituted either in Wake County Superior Court, or any other county, by the Attorney General for the use of the State of North Carolina.

(c) Any health care provider or other entity that enters into an arrangement or scheme, such as cross-referral arrangement, that the health care provider or entity knows or should know is intended to induce referrals or patients for designated health care services to a particular entity and that, if the health care provider directly made referrals to such entity, would violate G.S. 90-406(d), shall be subject to a civil penalty of not more than seventy-five thousand dollars ($75,000) for each such circumvention arrangement or scheme, to be recovered in an action instituted either in Wake County Superior Court, or any other county, by the Attorney General for the use of the State of North Carolina. No civil penalty shall be assessed hereunder for any arrangement fully disclosed to the Attorney General in writing which receives a favorable determination by the Attorney General that, in his opinion, such arrangement is not a violation of G.S. 90-406, until a contrary determination is made in a court of law.

"*§ 90-408. Exceptions for underserved areas.*

(a) The provisions of G.S. 90-406 shall not apply to the referral by any health care provider to any entity in which such health care provider has a legal, beneficial, or investment interest upon receipt by such health care provider of a determination by the Department of Human Resources that:

(1) There is a demonstrated need in the county where the entity is located or is proposed to be located; and

(2) Alternative financing is not available on reasonable terms from other sources to develop such entity.

(b) The Department shall promulgate regulations governing the form and content of the applications to be filed by health care providers making application for exemption from G.S. 90-406, the business conduct of any such entity and the fair and reasonable access

by all health care providers in such county to the entity. Any determination made by the Department under this section shall be applicable for a period of five years from the date of issuance.

(c) In all cases in which a health care provider refers a patient to a health care facility outside that health care provider's practice in which the health care provider has a legal, beneficial, or investment interest, the health care provider shall disclose to the patient the health care provider's investment interest. Patients shall be given a list of effective alternative facilities if any such facilities become reasonably available, informed that they have the option to use one of the alternative facilities, and assured that they will not be treated differently by the health care provider if they do not choose the health care provider's facility."

Sec. 2. This act is effective upon ratification, and applies to referrals for designated health care services made on or after the effective date, provided that with respect to a legal, beneficial, or investment interest acquired by an investor before April 1, 1993, G.S. 90-406 shall not apply to referrals for designated health care services occurring before July 1, 1995.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 64 **CHAPTER 483**

AN ACT TO CREATE A RAIL COUNCIL WITHIN THE DEPARTMENT OF TRANSPORTATION AND TO BROADEN THE AUTHORITY OF THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 9. North Carolina Rail Council.

"§ *143B-361. Findings.*

The General Assembly finds that:

(1) The rail system in North Carolina is an irreplaceable transportation resource;

(2) The promotion and preservation of railroads operating within North Carolina as transportation resources and economic development tools is vital to the State's economy, and the continued economic viability of railroads is a necessary part of the free enterprise system;

(3) A healthy rail system is vital to a competitive State economy, and railroads must be allowed, through effective public policy, to compete fairly in the transportation marketplace

and to provide those transportation services for which rail is suitable;

(4) The preservation of rail corridors, through branch line rehabilitation and State acquisition of strategic corridors, is in the public interest and is an integral and necessary part of a balanced transportation system; and

(5) As the owner of the majority interest in the North Carolina Railroad Company, the State has a vested interest in the preservation, development, and well-being of the North Carolina Railroad.

"*§ 143B-362. North Carolina Rail Council -- creation; powers and duties.*

There is created the North Carolina Rail Council of the Department of Transportation. The Rail Council shall:

(1) Advise the Governor, Secretary of Transportation, Board of Transportation, and General Assembly on policy concerning the preservation and enhancement of the State's rail system, including the acquisition and management of existing rail corridors, revitalization and rehabilitation of active freight and passenger railways, improvements in rail safety, and promotion of competitive rail passenger services;

(2) Designate a Strategic Rail System, with the North Carolina Railroad as its foundation, to be approved by the Board of Transportation;

(3) Recommend to the Board of Transportation funding sources and levels to accomplish the purposes of this act;

(4) Plan and recommend the distribution of financial assistance for the revitalization of railroads and conservation of rail corridors as authorized in G.S. 136-44.36;

(5) Plan and recommend the acquisition of rail corridors for future use as authorized in G.S. 136-44.36A and oversee the protection and maintenance of preserved rail corridors;

(6) Otherwise assist in the preservation of the rail system in North Carolina through branch line rehabilitation and revitalization and through corridor acquisition by the Department of Transportation, and encourage cooperation between the Department of Transportation and railroad companies in preserving the linear integrity of strategic corridors;

(7) Advise the Department of Transportation on the reinvestment in the State's rail system of the annual dividends received by the State from its ownership of stock in the North Carolina Railroad and appropriated to the Department in G.S. 136-16.6;

(8) Promote and assist in the preservation of rail access to the facilities operated by the State Ports Authority and to passenger and cargo airport facilities; and

(9) Perform any other duties relating to the promotion and preservation of railroads which the Secretary may recommend.

The Council shall report its activities to the General Assembly by March 1 in odd-numbered years and to the Joint Legislative Commission on Governmental Operations by March 1 in even-numbered years.

"*§ 143B-363. North Carolina Rail Council -- members; selection; compensation.*

(a) The North Carolina Rail Council shall consist of 18 members, 14 of which shall be appointed by the Governor, who, in making the appointments, shall designate one person from each of the 14 transportation engineering divisions of the State. Of the members appointed by the Governor, at least two members shall possess broad knowledge of railroad operations, at least two members shall represent local government interests, and at least two members shall represent the interests of shippers or passengers using rail service. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint two members, who may be members of the General Assembly. All members of the Council should have an interest in developing policy for the promotion and preservation of railroads as part of a balanced transportation system.

(b) Nine of the initial members appointed by the Governor shall serve on the Council for terms of three years beginning July 1, 1993. The remaining members shall be appointed for terms of two years beginning July 1, 1993. Upon the expiration of each member's term, a successor shall be appointed for a term of two years. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, or death of a member shall be for the balance of the unexpired term.

(c) Each appointing officer may remove any member of the Council appointed by him for the reasons that members of boards, councils, or committees may be removed by the Governor pursuant to G.S. 143B-16.

(d) The Governor shall designate a member of the Council to serve as chairman at his pleasure.

(e) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) Members of the Council shall be subject to the provisions of G.S. 136-13, 136-13.1, and 136-14.

(g) All clerical and other services required by the Council shall be supplied by the Secretary of Transportation."

Sec. 2. G.S. 136-14.1 reads as rewritten:

"§ *136-14.1. ~~Highway~~ Transportation engineering divisions.*

For purposes of administering ~~the highway~~ transportation activities, the Department of Transportation shall have authority to designate boundaries of ~~highway~~ transportation engineering divisions for the proper administration of its duties."

Sec. 3. G.S. 136-17.2 reads as rewritten:

"§ *136-17.2. Members of the Board of Transportation represent entire State.*

The chairman and members of the Board of Transportation shall represent the entire State in ~~highway~~ transportation matters and not represent any particular person, persons, or area. The Board shall, from time to time, provide that one or more of its members or representatives shall publicly hear any person or persons concerning ~~highway~~ transportation matters in each of said geographic areas of the State."

Sec. 4. G.S. 143B-350(b), (c), and (h) read as rewritten:

"(b) The Board of Transportation shall have two ex officio members. The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the chairman of the Board of Transportation. The chairman of the North Carolina Rail Council shall be an ex officio member of the Board of Transportation.

(c) The Board of Transportation shall have ~~21~~ 20 members appointed by the Governor. One member shall be appointed from each of the 14 ~~highway~~ transportation engineering divisions and ~~seven~~ six members shall be appointed from the State at large. One at-large member shall be a registered voter of a political party other than the political party of the Governor. At least one at-large member shall possess a broad knowledge of public transportation matters. No more than two members provided for in this subsection shall reside in the same engineering division while serving in office. The initial members shall serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1981, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.

(h) Each member of the Board of Transportation ~~representing~~ who is appointed to represent a ~~highway~~ transportation engineering ~~division, or residing in that highway engineering division if the member is appointed from the State at large,~~ division or who resides

in a division shall be consulted before the Board makes a decision affecting that division."

Sec. 5. Notwithstanding G.S. 143B-350(b) and (c), as amended by this act, if the chairman of the North Carolina Rail Council is not already a member of the Board of Transportation on the effective date of this act, that chairman shall not become a member of the Board until a vacancy occurs in the at-large membership of the Board, and there shall continue to be seven at-large members of the Board until the vacancy occurs.

Sec. 6. This act becomes effective July 1, 1993.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 154 **CHAPTER 484**

AN ACT TO MAKE MOBILE CLASSROOMS AND MOBILE OFFICES SUBJECT TO SALES TAX RATHER THAN HIGHWAY USE TAX AND TO EXEMPT CERTAIN MOBILE CLASSROOMS FROM SALES TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.3(8b) reads as rewritten:

"(8b) 'Motor vehicle' means a vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle, but does not include:

a. A moped as defined in G.S. 20-4.01(27)(d1).
b. Special mobile equipment as defined in G.S. 20-4.01(44).
c. A tow dolly that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11).
d. A farm tractor or other implement of husbandry.
e. A manufactured ~~home.~~ home, a mobile office, or a mobile classroom.
f. Road construction or road maintenance machinery or equipment."

Sec. 2. G.S. 105-164.4(a) is amended by adding the following subdivision to read:

"(1e) The rate of three percent (3%) applies to the sales price of each mobile classroom or mobile office sold at retail, including all accessories attached to the mobile classroom or mobile office when it is delivered to the purchaser. The maximum tax is one thousand five hundred dollars ($1,500) per article. Each section of a mobile classroom

or mobile office that is transported separately to the site where it is to be placed is a separate article."

Sec. 3. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(41) Sales of mobile classrooms to local boards of education or to local boards of trustees of community colleges."

Sec. 4. This act becomes effective October 1, 1993.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 155 **CHAPTER 485**

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND TO CLARIFY AND MODIFY THE TAX SECRECY PROVISION.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 1007 of the 1991 Session Laws is repealed.

Sec. 2. G.S. 105-113.82(e) reads as rewritten:

"(e) Population Estimates. -- To determine the population of a city or county for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State ~~Budget~~ Planning Officer."

Sec. 3. G.S. 105-23(b), as amended by Chapter 362 and Chapter 371 of the 1993 Session Laws, reads as rewritten:

"(b) Exception. -- An inheritance tax return is not required to be filed for an estate that meets all of the following conditions:

(1) Its beneficiaries are all either Class A beneficiaries, as described in G.S. 105-4(a), or the surviving spouse.

(2) Its gross value, including the value of transfers over which the decedent retained an interest and the value of gifts made within three years before the decedent's death, as provided in G.S. 105-2(a)(3), is less than ~~two hundred fifty thousand dollars ($250,000),~~ four hundred fifty thousand dollars ($450,000).

~~July 1, 1993~~ $ ~~450,000~~".

Sec. 4. G.S. 105-125 reads as rewritten:

"§ *105-125. ~~Corporations not mentioned.~~ Exempt corporations.*

~~None of the taxes levied in this Article shall apply to charitable, religious, fraternal, benevolent, scientific or educational corporations, not operating for a profit; nor to insurance companies; nor to mutual ditch or irrigation associations, mutual or cooperative telephone~~

~~associations or companies, mutual canning associations, cooperative breeding associations, or like organizations or associations of a purely local character deriving receipts solely from assessments, dues, or fees collected from members for the sole purpose of meeting expenses; nor to cooperative marketing associations operating solely for the purpose of marketing the products of members or other farmers, which operations may include activities which are directly related to such marketing activities, and turning back to them the proceeds of sales, less the necessary operating expenses of the association, including interest and dividends on capital stock on the basis of the quantity of product furnished by them; nor to production credit associations organized under the act of Congress known as the Farm Credit Act of 1933; nor to business leagues, boards of trade, clubs organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, civic leagues operated exclusively for the promotion of social welfare, or chambers of commerce and merchants' associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private stockholder, individual or other corporations; nor to corporations or organizations, such as condominium associations, homeowner associations or cooperative housing corporations not organized for profit, the membership of which is limited to the owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation, and operated exclusively for the management, operation, preservation, maintenance or landscaping of the common areas and facilities owned by such corporation or organization or its members situated contiguous to such houses, apartments or other dwellings or for the management, operation, preservation, maintenance and repair of such houses, apartments or other dwellings owned by the corporation or organization or its members, but only if no part of the net earnings of such corporation or organization inures (other than through the performance of related services for the members of such corporation or organization) to the benefit of any member of such corporation or organization or other person. In addition, absent a specific provision to the contrary, the taxes levied in this Article do not apply to any organization that is exempt from federal income tax under the Code.~~

~~Provided, that each such corporation must, upon request by the Secretary of Revenue, establish in writing its claim for exemption from said provisions.~~

(a) Exemptions. -- The following corporations are exempt from the taxes levied by this Article. Upon request of the Secretary, an exempt corporation must establish its claim for exemption in writing:

(1) A charitable, religious, fraternal, benevolent, scientific, or educational corporation not operated for profit.

(2) An insurance company subject to tax under Article 8B of this Chapter.

(3) A mutual ditch or irrigation association, a mutual or cooperative telephone association or company, a mutual canning association, a cooperative breeding association, or a similar corporation of a purely local character deriving receipts solely from assessments, dues, or fees collected from members for the sole purpose of meeting expenses.

(4) A cooperative marketing association that operates solely for the purpose of marketing the products of members or other farmers and returns to the members and farmers the proceeds of sales, less the association's necessary operating expenses, including interest and dividends on capital stock, on the basis of the quantity of product furnished by them. The association's operations may include activities directly related to these marketing activities.

(5) A production credit association organized under the federal Farm Credit Act of 1933.

(6) A club organized and operated exclusively for pleasure, recreation, or other nonprofit purposes, a civic league operated exclusively for the promotion of social welfare, a business league, or a board of trade.

(7) A chamber of commerce or merchants' association not organized for profit, no part of the net earnings of which inures to the benefit of a private stockholder, an individual, or another corporation.

(8) An organization, such as a condominium association, a homeowners' association, or a cooperative housing corporation not organized for profit, the membership of which is limited to the owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation. To qualify for the exemption, the organization must be operated exclusively for the management, operation, preservation, maintenance, or landscaping of the residential units owned by the organization or its members or of the common areas and facilities that are contiguous to the residential units and owned by the organization or by its members. To qualify for the exemption, no part of the net earnings of the organization may inure, other than through the performance of related services for the members of the organization, to the benefit of any person.

(9) Except as otherwise provided by law, an organization exempt from federal income tax under the Code.

~~The provisions of G.S. 105-122 shall apply to electric light, power, gas, water, Pullman, sleeping and dining car, express, telegraph, telephone, motor bus, and truck corporations to the extent and only to the extent that the franchise taxes levied in G.S. 105-122 exceed the franchise taxes levied in other sections of this Article or schedule; except that the provisions of G.S. 105-122 shall not apply to businesses taxed under G.S. 105-120.1. The exemptions in this section shall apply only to those corporations specially mentioned, and no other.~~

(b) Certain Investment Companies. -- A ~~Provided, that any~~ corporation doing business in North Carolina that ~~which in the opinion of the Secretary of Revenue of North Carolina,~~ qualifies as a 'regulated investment company' under section 851 of the Code or as a 'real estate investment trust' under ~~the provisions of~~ section 856 of the Code and ~~which files with the North Carolina Department of Revenue its election~~ elects for federal income tax purposes to be treated as a 'regulated investment company' or as a 'real estate investment trust,' ~~shall~~ may, in determining its basis for franchise ~~tax be allowed to~~ tax, deduct the aggregate market value of its investments in the stocks, bonds, debentures, or other securities or evidences of debt of other corporations, partnerships, individuals, municipalities, governmental ~~agencies~~ agencies, or governments."

Sec. 5. G.S. 105-114(a) reads as rewritten:

"(a) Nature of Taxes. The taxes levied in this Article upon persons and partnerships are for the privilege of engaging in business or doing the act named. The taxes levied in this Article upon corporations are privilege or excise taxes levied upon:

(1) Corporations organized under the laws of this State for the existence of the corporate rights and privileges granted by their charters, and the enjoyment, under the protection of the laws of this State, of the powers, rights, privileges and immunities derived from the State by the form of such existence; and

(2) Corporations not organized under the laws of this State for doing business in this State and for the benefit and protection which such corporations receive from the government and laws of this State in doing business in this State.

If the corporation is organized under the laws of this State, the payment of the taxes levied by this Article shall be a condition precedent to the right to continue in such form of organization; and if the corporation is not organized under the laws of this State, payment

of these taxes shall be a condition precedent to the right to continue to engage in doing business in this State. The taxes levied in this Article or schedule shall be for the fiscal year of the State in which the taxes become due; except that the taxes levied in G.S. 105-122 shall be for the income year of the corporation in which the taxes become due.

G.S. 105-122 does not apply to street transportation systems taxed under G.S. 105-120.1 or holding companies taxed under G.S. 105-120.2. G.S. 105-122 applies to a corporation taxed under another section of this Article only to the extent the taxes levied on the corporation in G.S. 105-122 exceed the taxes levied on the corporation in other sections of this Article."

Sec. 6. G.S. 105-127 is amended by adding at the end a new subsection to read:

"(f) After the end of the income year in which a domestic corporation is dissolved pursuant to Article 14 of Chapter 55 of the General Statutes, the corporation is no longer subject to the tax levied in this Article unless the Secretary of Revenue finds that the corporation has engaged in business activities in this State not appropriate to winding up and liquidating its business and affairs."

Sec. 7. G.S. 105-130.40(c), as amended by Section 1 of Chapter 45 of the 1993 Session Laws, reads as rewritten:

"(c) County Designation. -- A severely distressed county is a county designated as severely distressed by the Secretary of Commerce. Each year, on or before December 31, the Secretary of Commerce shall designate which counties are considered severely distressed, and shall provide that information to the Secretary of Revenue. A county is considered severely distressed if its distress factor is one of the fifty highest in the State. The Secretary shall assign to each county in the State a distress factor that is the sum of the following:

(1) The county's rank in a ranking of counties by rate of unemployment from lowest to highest.
(2) The county's rank in a ranking of counties by per capita income from highest to lowest.
(3) The county's rank in a ranking of counties by percentage growth in population from lowest to highest.

In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population growth, the Secretary shall use the most recent estimates of population certified by the State ~~Budget~~ Planning Officer. A designation as a severely distressed county is effective only for the calendar year following the designation."

Sec. 8. G.S. 105-131.2(a) reads as rewritten:

"(a) Adjustment. The pro rata share of each shareholder in the income attributable to the State of an S Corporation shall be ~~subject to the adjustments~~ adjusted as provided in G.S. 105-130.5. The pro rata share of each resident shareholder in the income not attributable to the State of an S Corporation shall be ~~subject to the adjustments provided in G.S. 105-134.6(b) and (c),~~ adjusted as provided in G.S. 105-134.6(b), (c), and (d)."

Sec. 9. G.S. 105-134.6, as amended by Chapter 12 of the 1993 Session Laws, reads as rewritten:

"*§ 105-134.6. Adjustments to taxable income.*

(a) S Corporations. -- The pro rata share of each shareholder in the income attributable to the State of an S Corporation shall be adjusted as provided in G.S. 105-130.5. The pro rata share of each resident shareholder in the income not attributable to the State of an S Corporation shall be subject to the adjustments provided in subsections ~~(b) and (c)~~ (b), (c), and (d) of this section.

(b) Deductions. -- The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in ~~gross~~ taxable income:

(1) Interest upon the obligations of (i) the United States or its possessions, (ii) this State or a political subdivision of this State, or (iii) a nonprofit educational institution organized or chartered under the laws of this State.

(2) Interest upon obligations and gain from the disposition of obligations to the extent the interest or gain is exempt from tax under the laws of this State.

(3) Benefits received under Title II of the Social Security Act and amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1002, s. 2.

(5) Refunds of state, local, and foreign income taxes included in the taxpayer's gross income.

(6) a. An amount, not to exceed four thousand dollars ($4,000), equal to the sum of the amount calculated in subparagraph b. plus the amount calculated in subparagraph c.

b. The amount calculated in this subparagraph is the amount received during the taxable year from one or more state, local, or federal government retirement plans.

c. The amount calculated in this subparagraph is the amount received during the taxable year from one or

more retirement plans other than state, local, or federal government retirement plans, not to exceed a total of two thousand dollars ($2,000) in any taxable year.

d. In the case of a married couple filing a joint return where both spouses received retirement benefits during the taxable year, the maximum dollar amounts provided in this subdivision for various types of retirement benefits apply separately to each spouse's benefits.

(7) ~~The amount of inheritance tax attributable to an item of income in respect of a decedent required to be included in gross income under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7. The amount of inheritance tax attributable to an item of income in respect of a decedent is (i) the amount by which the inheritance tax paid under Article 1 of this Chapter on property transferred to a beneficiary by a decedent exceeds the amount of inheritance tax that would have been payable by the beneficiary if the item of income in respect of a decedent had not been included in the property transferred to the beneficiary by the decedent, (ii) multiplied by a fraction, the numerator of which is the amount required to be included in gross income for the taxable year under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7, and the denominator of which is the total amount of income in respect of a decedent transferred to the beneficiary by the decedent. For an estate or trust, the deduction allowed by this subdivision shall be computed by excluding from the gross income of the estate or trust the portion, if any, of the items of income in respect of a decedent that are properly paid, credited, or to be distributed to the beneficiaries during the taxable year.~~

~~The Secretary of Revenue may provide to a beneficiary of an item of income in respect of a decedent any information contained on an inheritance tax return that the beneficiary needs to compute the deduction allowed by this subdivision.~~ Recodified as G.S. 105-134.6(d)(1).

(8) ~~The amount by which the taxpayer's deductions allowed under the Code were reduced, and the amount of the taxpayer's deductions that were not allowed, because the taxpayer elected a federal tax credit in lieu of a deduction, to the extent that a similar credit is not allowed by this Division for the amount.~~ Recodified as G.S. 105-134.6(d)(2).

(9) Income that is (i) earned or received by an enrolled member of a federally recognized Indian tribe and (ii) derived from

activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(c) Additions. -- The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in ~~gross~~ taxable income:

(1) Interest upon the obligations of states, other than this State, and their political subdivisions.

(2) Any amount allowed as a deduction from gross income under the Code that is taxed under the Code by a separate tax other than the tax imposed in section 1 of the Code.

(3) Any amount deducted from gross income under section 164 of the Code as state, local, or foreign income tax to the extent that the taxpayer's total itemized deductions deducted under the Code for the taxable year exceed the standard deduction allowable to the taxpayer under the Code reduced by the amount by which the taxpayer's allowable standard deduction has been increased under section 63(c)(4) of the Code.

(4) The amount by which the taxpayer's standard deduction has been increased for inflation under section 63(c)(4)(A) of the Code and the amount by which the taxpayer's personal exemptions have been increased for inflation under section 151(d)(4) of the Code. For the purpose of this subdivision, if the taxpayer's personal exemptions have been reduced by the applicable percentage under section 151(d)(3) of the Code, the amount by which the personal exemptions have been increased for inflation is also reduced by the applicable percentage.

(5) The fair market value, up to a maximum of one hundred thousand dollars ($100,000), of the donated property interest for which the taxpayer claims a credit for the taxable year under G.S. 105-151.12 and the market price of the gleaned crop for which the taxpayer claims a credit for the taxable year under G.S. 105-151.14.

(d) Other Adjustments. -- The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

(1) The amount of inheritance tax attributable to an item of income in respect of a decedent required to be included in gross income under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7, may be deducted in the year the item of income is included. The amount of

inheritance tax attributable to an item of income in respect of a decedent is (i) the amount by which the inheritance tax paid under Article 1 of this Chapter on property transferred to a beneficiary by a decedent exceeds the amount of inheritance tax that would have been payable by the beneficiary if the item of income in respect of a decedent had not been included in the property transferred to the beneficiary by the decedent, (ii) multiplied by a fraction, the numerator of which is the amount required to be included in gross income for the taxable year under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7, and the denominator of which is the total amount of income in respect of a decedent transferred to the beneficiary by the decedent. For an estate or trust, the deduction allowed by this subdivision shall be computed by excluding from the gross income of the estate or trust the portion, if any, of the items of income in respect of a decedent that are properly paid, credited, or to be distributed to the beneficiaries during the taxable year.

The Secretary of Revenue may provide to a beneficiary of an item of income in respect of a decedent any information contained on an inheritance tax return that the beneficiary needs to compute the deduction allowed by this subdivision.

(2) The taxpayer may deduct the amount by which the taxpayer's deductions allowed under the Code were reduced, and the amount of the taxpayer's deductions that were not allowed, because the taxpayer elected a federal tax credit in lieu of a deduction. This deduction is allowed only to the extent that a similar credit is not allowed by this Division for the amount."

Sec. 10. G.S. 105-134.7(a)(5) reads as rewritten:

"(5) ~~The amount of any~~ If the taxpayer has a net operating loss for a taxable year beginning on or after January 1, 1989, that part of the loss that is carried back to and deducted in a taxable year beginning before January 1, 1989, pursuant to section 172 of the Code may be deducted from taxable income in the taxable year following the taxable year for which the loss occurred."

Sec. 11. G.S. 105-151.17(c), as amended by Section 2 of Chapter 45 of the 1993 Session Laws, reads as rewritten:

"(c) County Designation. -- A severely distressed county is a county designated as severely distressed by the Secretary of Commerce. Each year, on or before December 31, the Secretary of

Commerce shall designate which counties are considered severely distressed, and shall provide that information to the Secretary of Revenue. A county is considered severely distressed if its distress factor is one of the fifty highest in the State. The Secretary shall assign to each county in the State a distress factor that is the sum of the following:

(1) The county's rank in a ranking of counties by rate of unemployment from lowest to highest.
(2) The county's rank in a ranking of counties by per capita income from highest to lowest.
(3) The county's rank in a ranking of counties by percentage growth in population from lowest to highest.

In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population growth, the Secretary shall use the most recent estimates of population certified by the State ~~Budget~~ Planning Officer. A designation as a severely distressed county is effective only for the calendar year following the designation."

Sec. 12. G.S. 105-163.013(d), as amended by Senate Bill 1141, Chapter __ of the 1993 Session Laws, reads as rewritten:

"(d) Application Forms; Rules; Fees. -- Applications for registration, renewal of registration, and reinstatement of registration under this section shall be in the form required by the Secretary of State. The Secretary may, by rule, require applicants to furnish supporting information in addition to the information required by subsections (a), (b), and (c) of this section. The Secretary may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary's responsibilities under this Division. The Secretary shall prepare blank forms for the applications and shall distribute them throughout the State and furnish them on request. Each application shall be signed by the owners of the business or, in the case of a corporation, by its president, vice-president, treasurer, or secretary. There shall be annexed to the application the affirmation of the person making the application in the following form: 'Under penalties prescribed by law, I certify and affirm that to the best of my knowledge and belief this application is true and complete.' A person who submits a false application is guilty of a misdemeanor and is punishable as provided in G.S. 14-3.

The fee for filing an application for registration under this section shall be one hundred dollars ($100.00). The fee for filing an application for renewal of registration under this section shall be fifty dollars ($50.00). The fee for filing an application for reinstatement of registration under this section shall be fifty dollars ($50.00).

An application for renewal of registration under this section shall indicate whether the applicant is a minority ~~business enterprise~~ business, as defined in G.S. 143-128, and shall include a report of the number of jobs the business created during the preceding year that are attributable to investments that qualify under this section for a tax credit and the average wages paid by each job. An application that does not contain this information is incomplete and the applicant's registration may not be renewed until the information is provided."

Sec. 13. G.S. 105-187.19 reads as rewritten:

"*§ 105-187.19. Use of tax proceeds.*

The Secretary shall distribute the taxes collected under this Article, less the cost of collecting the taxes, in accordance with this section. The Secretary shall retain the cost of collection as reimbursement to the Department of Revenue.

Each quarter, the Secretary shall credit ten percent (10%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall distribute ninety percent (90%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the ~~Office of State Budget and Management~~ State Planning Officer. A county may use funds distributed to it under this section only as provided in G.S. 130A-309.54."

Sec. 14. G.S. 105-266.1(c) reads as rewritten:

"(c) Within 90 days after notification of the Secretary's decision with respect to a demand for refund of any tax or additional tax under this ~~section any taxpayer aggrieved thereby, in lieu~~ section, an aggrieved taxpayer may, instead of petitioning for administrative review by the Tax Review Board under G.S. ~~105-241.1, may~~ 105-241.2, bring a civil action against the Secretary ~~of Revenue~~ for recovery of the alleged ~~overpayment~~ overpayment. If the alleged overpayment is more than two hundred dollars ($200.00), the taxpayer may bring the action either in the Superior Court of Wake ~~County,~~ County or in the superior court of the county in which the taxpayer ~~resides, if the alleged overpayment exceeds two hundred dollars ($200.00), and if~~ resides; if the alleged overpayment is two hundred dollars ($200.00) or less, the taxpayer may bring the action in any State court of competent jurisdiction in Wake County. If upon trial it ~~shall be~~ is determined that there has been ~~any~~ an overpayment of tax or additional tax, judgment shall be rendered therefor, with interest, and the ~~same shall be refunded by the State.~~ State shall refund the amount due."

Sec. 15. G.S. 105-269.3 reads as rewritten:

"*§ 105-269.3. ~~Administration and enforcement~~ Enforcement of Subchapter V and fuel inspection fee.*

~~This Article applies to taxes levied under Subchapter V of this Chapter and to inspection fees levied under Chapter 119 of the General Statutes.~~ The State Highway Patrol and law enforcement officers and other appropriate personnel in the Division of Motor Vehicles of the Department of Transportation may assist the Department of Revenue in enforcing Subchapter V of this Chapter and Article 3 of Chapter 119 of the General Statutes. The State Highway Patrol and law enforcement officers of the Division of Motor Vehicles have the power of peace officers in matters concerning the enforcement of Subchapter V of this Chapter and Article 3 of Chapter 119 of the General Statutes."

Sec. 16. G.S. 105-277A(e) reads as rewritten:

"(e) Population Estimates. -- In making the per capita calculations under this section, the Secretary shall use the most recent annual population estimates certified by the State ~~Budget~~ Planning Officer."

Sec. 17. G.S. 105-285(b) reads as rewritten:

"(b) Personal Property; General Rule. -- Except as otherwise provided in ~~subsection (c) below,~~ this Chapter, the value, ownership, and place of taxation of personal property, both tangible and intangible, shall be determined annually as of January 1."

Sec. 18. Effective on and after January 1, 1993, G.S. 105-330.1, as amended, reads as rewritten:

"§ *105-330.1. Classification of motor vehicles.*

(a) Classification. -- All motor ~~vehicles, except (i) motor vehicles exempt from registration pursuant to G.S. 20-51, (ii) manufactured homes, mobile classrooms, and mobile offices, (iii) semitrailers or trailers registered on a multiyear basis, and (iv) motor vehicles owned or leased by a public service company and appraised under G.S. 105-335, are hereby~~ vehicles other than the motor vehicles listed in subsection (b) of this section are designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Classified motor vehicles shall be listed and assessed as provided in this Article and taxes on classified motor vehicles shall be collected as provided in this Article.

(b) Exceptions. -- The following motor vehicles are not classified under subsection (a) of this section:

(1) Motor vehicles exempt from registration pursuant to G.S. 20-51.

(2) Manufactured homes, mobile classrooms, and mobile offices.

(3) Semitrailers or trailers registered on a multiyear basis.

(4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.

(5) 'U-drive-it' passenger vehicles registered under G.S. 20-87(2)."

Sec. 19. G.S. 105-395(c) reads as rewritten:

"(c) It is the intent of the General Assembly to make the provisions of this Subchapter ~~(being G.S. 105-291 [105-271] through 105-395, inclusive)~~ uniformly applicable throughout the State, and to assure this objective all laws and clauses of laws, including private and local ~~acts (except~~ acts, other than local acts relating to the selection of tax ~~collectors),~~ collectors, in conflict with ~~the provisions of~~ this Subchapter ~~shall, as of July 1, 1971, be and~~ are ~~hereby repealed.~~ repealed effective July 1, 1971. As used in this section, the term 'local acts' means any acts of the General Assembly that apply to one or more counties by name, to one or more municipalities by name, or to all municipalities within one or more named counties."

Sec. 20. G.S. 105-441(a) reads as rewritten:

"(a) Acts. -- Any distributor who commits one or more of the following acts is guilty of a misdemeanor:

(1) Fails to obtain a license required by this Article.
(2) Willfully fails to make a report required by this Article.
(3) Willfully fails to pay a tax when due under this Article.
(4) Makes a false statement in an application, a report, or a statement required under this Article.
(5) Fails to keep records as required under this Article.
(6) Refuses to allow the Secretary of Revenue or a representative of the Secretary of Revenue to examine the distributor's books and records concerning motor fuel.
(7) Fails to disclose the correct amount of motor fuel sold or used in this State.
(8) Fails to file a replacement bond or an additional bond as required under this Article.

On conviction, a distributor shall be fined not less than one hundred dollars ($100.00) and not more than five thousand dollars ($5,000) or, in the case of an individual or the officer or employee charged with the duty of making a report for a corporation, imprisoned not exceeding 24 months, or both."

Sec. 21. G.S. 105-449.34(a), as amended by Section 1 of Chapter 140 of the 1993 Session Laws, reads as rewritten:

"(a) General Misdemeanors. -- A person who commits one or more of the following acts is guilty of a misdemeanor and is punishable as provided in G.S. 14-3:

(1) Fails to obtain a license required by this Article.
(2) Willfully fails to make a report required by this Article.
(3) Willfully fails to pay a tax when due under this Article.

(4) Makes a false statement in an application, a report, or a statement required under this Article.
(5) Fails to keep records as required under this Article.
(6) Refuses to allow the Secretary or a representative of the Secretary to examine the licensee's books and records concerning fuel.
(7) Fails to disclose the correct amount of fuel sold or used in this State.
(8) Fails to file a replacement bond or an additional bond as required under this Article."

Sec. 22. G.S. 105-466(d) reads as rewritten:

"(d) ~~The board of county commissioners, upon adoption of said resolution, shall cause a certified copy of the resolution to be delivered immediately to the Secretary of Revenue.~~ Upon adoption of a resolution levying the tax, the board of county commissioners shall immediately deliver a certified copy of the resolution to the Secretary, accompanied by a certified statement from the county board of elections, if applicable, setting forth the results of any special election approving the tax in the county. ~~Thereupon, the Secretary of Revenue shall proceed as authorized in this Article to administer the tax in such county, unless said county board of commissioners shall notify the Secretary of Revenue in writing that, pursuant to a resolution duly adopted by said Board, the tax will be collected and administered by the taxing county.~~ Upon receipt of these documents, the Secretary shall collect and administer the tax as provided in this Article."

Sec. 23. G.S. 105-469 reads as rewritten:

"§ *105-469. ~~Collection and administration of local sales and use tax; authorization to promulgate rules and regulations.~~ Secretary to collect and administer local sales and use tax.*

~~Unless the county board of commissioners shall have notified the Secretary to the contrary, as provided in G.S. 105-466(d), the Secretary of Revenue~~ The Secretary shall collect and administer ~~the local sales and use tax imposed by a taxing~~ a tax levied by a county pursuant to ~~the provisions of this Article and shall be charged with the duty of administering the local sales and use tax authorized to be imposed by~~ this Article. ~~In addition to the present statutory provisions authorizing the Secretary of Revenue to adopt and promulgate rules and regulations pertaining to the administration and collection of taxes, the Secretary of Revenue is empowered to promulgate such additional rules and regulations as are necessary and proper for the implementation of this Article.~~"

Sec. 24. G.S. 105-472 reads as rewritten:

"§ *105-472. Disposition and distribution of taxes collected.*

(a) County Allocation. -- The Secretary shall, on a quarterly basis, allocate to each taxing county for which the Secretary collects the tax the net proceeds of the tax collected in that county under this Article. For the purpose of this section, 'net proceeds' means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the quarterly distribution.

~~With respect to the counties in which he shall collect and administer the tax, the Secretary of Revenue shall, on a quarterly basis, distribute to each taxing county and to the municipalities therein the net proceeds of the tax collected in that county under this Article which amount shall be determined by deducting taxes refunded, the cost to the State of collecting and administering the tax in the taxing county and such other deductions as may be properly charged to the taxing county, from the gross amount of the tax remitted to the Secretary of Revenue from the taxing county. The Secretary shall determine the cost of collection and administration, and that amount shall be retained by the State before distribution of the net proceeds of the tax. For the purposes of this Article, 'municipalities' shall mean cities as defined by G.S. 153A-1(1).~~

(b) Distribution Between Counties and Cities. -- The Secretary shall divide the amount allocated to each taxing county among the county and its municipalities in accordance with the method determined by the county. The board of county commissioners shall, ~~in the resolution levying the tax, determine that the net proceeds of the tax shall be distributed in one of the following methods and thereafter said proceeds shall be distributed in accordance therewith:~~ by resolution, choose one of the following methods of distribution:

(1) Per Capita Method. -- ~~The amount distributable to a taxing county and to the municipalities therein from the net proceeds of the tax collected therein shall be determined upon the following basis:~~ The net proceeds of the tax collected in a taxing county shall be distributed to that ~~taxing~~ county and to the municipalities ~~therein upon~~ in the county on a per capita basis according to the total population of the taxing county, plus the total population of the municipalities in the county. In the case of a municipality located in more than one county, only that part of its population living in the

taxing county is considered its 'total population'. ~~therein; provided, however, that 'total population' of a municipality lying within more than one county shall be only that part of its population which lives within the taxing county. For this purpose, the Secretary of Revenue~~ In order to make the distribution, the Secretary shall determine a per capita figure by dividing the ~~net proceeds of the tax collected under this Article for the preceding quarter within a~~ amount allocated to each taxing county by the total population of that ~~taxing~~ county plus the total population of all municipalities ~~therein~~ in the county. ~~according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer. The per capita figure thus derived shall be multiplied~~ The Secretary shall then multiply this per capita figure by the population of the taxing county and by the population of each ~~respective~~ municipality ~~therein according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer, and~~ in the county; each respective product shall be the amount to be distributed to ~~each taxing~~ the county and to each municipality ~~therein.~~ in the county. To determine the population of each county and each municipality, the Secretary shall use the most recent annual estimate of population certified by the State Planning Officer. ~~The State Budget Officer shall annually cause to be prepared and shall certify to the Secretary of Revenue such reasonably accurate population estimates of all counties and municipalities in the State as may be practicably developed; or~~

(2) Ad Valorem Method. -- The net proceeds of the tax collected in a taxing county shall be ~~divided between the~~ distributed to that county and the municipalities ~~therein~~ in the county in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing county during the fiscal year next preceding ~~such~~ the distribution. For purposes of this section, the amount of the ad valorem taxes levied by ~~such~~ a county or municipality ~~shall include any~~ includes ad valorem taxes levied by ~~such~~ the county or municipality in behalf of a taxing district ~~or districts~~ and collected by the county or municipality. In addition, the amount of taxes levied by a county ~~shall include any~~ includes ad valorem taxes levied by a merged school administrative unit described in G.S. 115C-513 in the part of the unit located in the county. In computing the amount of tax proceeds to be distributed to ~~any county or~~ each

county and municipality, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. Each county and municipality receiving a ~~distributable share of the sales and use~~ distribution of the proceeds of the tax levied under this Article shall in turn immediately share the proceeds with ~~any district or districts~~ each district in behalf of which the county or municipality levied ad valorem taxes in the proportion that the district levy bears to the total levy of the county or municipality. Any county or municipality ~~which~~ that fails to provide the Department of Revenue with information concerning ad valorem taxes levied by ~~that county or municipality~~ it adequate to permit a timely determination of ~~the~~ its appropriate share ~~of that county or municipality~~ of tax proceeds collected under this Article may be excluded by the Secretary from each quarterly distribution with respect to which ~~such~~ the information was not provided in a timely manner, and ~~such~~ those tax proceeds shall then be distributed only to the ~~governmental unit or units whose information was provided in a timely manner,~~ remaining counties or municipalities, as appropriate. For the purpose of computing the distribution of the tax under this subsection to any county and the municipalities located ~~therein~~ in the county for any quarter with respect to which the property valuation of a public service company is the subject of an appeal ~~pursuant to the provisions of the Machinery Act, or to applicable provisions of federal law,~~ and the Department of Revenue is restrained by ~~operation of~~ law ~~or by a court of competent jurisdiction~~ from certifying ~~such~~ the valuation to the county and the municipalities ~~therein,~~ in the county, the Department shall use the last property valuation of ~~such~~ the public service company ~~which~~ that has been ~~so certified in order to determine the ad valorem tax levies applicable to such public service company in the county and the municipalities therein.~~ certified.

~~Where local use taxes, levied pursuant to this Article, or to any other local sales tax act, which cannot be identified as being attributable to any particular taxing county are collected and remitted to the Secretary, he shall apportion said taxes to the taxing counties in the same proportion that the local sales and use taxes collected each month in a taxing county bears to the total local sales and use taxes collected in all taxing counties each month during the quarter for which a distribution is to be made, and the total net proceeds shall then be distributed as above provided.~~

The board of county commissioners in each taxing county shall, by resolution adopted during the month of April of each year, determine which of the two foregoing methods of distribution shall be in effect in the county during the next succeeding fiscal year. In order for ~~such~~ the resolution to be effective, a certified copy ~~thereof~~ of it must be delivered to the Secretary ~~of Revenue at his office~~ in Raleigh within 15 calendar days after its adoption. If the board fails to adopt ~~any~~ a resolution ~~or if it fails to adopt~~ choosing a method of distribution not then in effect in the county, or if a certified copy of the resolution is not timely delivered to the Secretary, the method of distribution then in effect in the county shall continue in effect for the following fiscal year. The method of distribution in effect on the first of July of each fiscal year shall apply to every distribution made during that fiscal year.

(c) Municipality Defined. -- As used in this Article, the term 'municipality' means 'city' as defined in G.S. 153A-1."

Sec. 25. G.S. 105-482 reads as rewritten:

"*§ 105-482. Limitations.*

This Article applies only to counties that levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session ~~Laws and do not levy one-half percent (1/2%) local sales and use taxes under Article 41 of this Chapter.~~ Laws."

Sec. 26. G.S. 105-483 reads as rewritten:

"*§ 105-483. Levy and collection of additional taxes.*

Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean Article 40 of ~~Chapter 105,~~ this Chapter. ~~All taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county.~~ The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article."

Sec. 27. G.S. 105-498 reads as rewritten:

"*§ 105-498. Levy and collection of additional taxes.*

Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this

Chapter to this Article, references to 'this Article' mean Article 42 of ~~Chapter 105.~~ this Chapter. ~~All taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county.~~ The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article."

Sec. 28. G.S. 160A-623(h) reads as rewritten:

"(h) Tax Situs. -- ~~The fact that the county listed by the owner under G.S. 105-314 as the county where the vehicle is subject to ad valorem taxation is within the territorial jurisdiction of the Authority shall be **prima facie** evidence that the vehicle has a tax situs within the territorial jurisdiction of the Authority.~~ The tax situs of a motor vehicle for the purpose of this section is its ad valorem tax situs. If the vehicle is exempt from ad valorem tax, its tax situs for the purpose of this section is the ad valorem tax situs it would have if it were not exempt from ad valorem tax."

Sec. 29. The caption to G.S. 105-449.16 reads as rewritten:

"*§ 105-449.16. Levy of ~~tax~~, tax and application of tax ~~proceeds, and exemption for nonanhydrous ethanol~~, proceeds.*"

Sec. 30. G.S. 105-434(c) is repealed.

Sec. 31. G.S. 105-259 reads as rewritten:

"*§ 105-259. Secrecy required of officials; penalty for violation.*

~~With respect to any one of the following persons: (i) the Secretary of Revenue and all other officers or employees, and former officers and employees, of the Department of Revenue; (ii) local tax officials, as defined in G.S. 105-273, and former local tax officials; (iii) members and former members of the Property Tax Commission; (iv) any other person authorized in this section to receive information concerning any item contained in any report or return, or authorized to inspect any report or return; and (v) the Commissioner of Insurance and all other officers or employees and former officers and employees of the Department of Insurance with respect to State and federal income tax returns filed with the Commissioner of Insurance by domestic insurance companies; and except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any of these persons to divulge or make known in any manner the amount of income, income tax or other taxes of any taxpayer, or information relating thereto or from which the amount of income, income tax or other taxes or any part thereof might be determined, deduced or estimated, whether it is set forth or disclosed in or by means of any report or return required to be filed or furnished under this Subchapter, or in or by means of any audit, assessment, application, correspondence, schedule or other document relating to the taxpayer, notwithstanding the provisions of Chapter 132 of the General Statutes or of any other law or laws relating to public~~

~~records. It shall likewise be unlawful to reveal whether or not any taxpayer has filed a return, and to abstract, compile or furnish to any person, firm or corporation not otherwise entitled to information relating to the amount of income, income tax or other taxes of a taxpayer, any list of names, addresses, social security numbers or other personal information concerning the taxpayer, whether or not the list discloses a taxpayer's income, income tax or other taxes, or any part thereof, except that when an election is made by a husband and wife under G.S. 105-152.1 to file a joint return, any information given to one spouse concerning the income or income tax of the other spouse reported or reportable on the joint return shall not be a violation of the provisions of this section.~~

~~Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof; the inspection of these reports or returns by the Governor, Attorney General, or their duly authorized representative; or the inspection by a legal representative of the State of the report or return of any taxpayer who shall bring an action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or penalty imposed by this Subchapter; nor shall the provisions of this section prohibit the Department of Revenue furnishing information to other governmental agencies of persons and firms properly licensed under Schedule B, G.S. 105-33 to 105-113. The Department of Revenue may exchange information with the officers of organized associations of taxpayers under Schedule B, G.S. 105-33 to 105-113, with respect to parties liable for these taxes and as to parties who have paid these license taxes.~~

~~When any record of the Department of Revenue has been photographed, photocopied, or microphotocopied pursuant to the authority contained in G.S. 8-45.3, the original of that record may thereafter be destroyed at any time upon the order of the Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-2, or any other law relating to the preservation of public records. Any record that has not been so photographed, photocopied, or microphotocopied shall be preserved for three years, and thereafter until the Secretary of Revenue orders it destroyed.~~

~~Any person, officer, agent, clerk, employee, or local tax official or any former officer, employee, or local tax official who violates the provisions of this section shall be guilty of a misdemeanor and fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000) and/or imprisoned, in the discretion of the court; and if the person committing the violation is a public officer or employee, that person shall be dismissed from such office or~~

~~employment, and may not hold any public office or employment in this State for a period of five years thereafter.~~

~~Notwithstanding the provisions of this section, the Secretary of Revenue may permit the Commissioner of Internal Revenue of the United States, or the revenue officer of any other state imposing any of the taxes imposed in this Subchapter, or the duly authorized representative of either, to inspect the report or return of any taxpayer; or may furnish that person an abstract of the report or return of any taxpayer; or supply that person with information concerning any item contained in any report or return, or disclosed by the report of any investigation of any report or return of any taxpayer. The permission, however, may be granted or the information furnished to the officer or agent only if the statutes of the United States or of the other state grant substantially similar privilege to the Secretary of Revenue of this State or the Secretary's duly authorized representative. Notwithstanding any other provision of law, the Secretary may also furnish names, addresses, and account and identification numbers of (i) taxpayers who may be entitled to property held in the Escheat Fund to the Department of State Treasurer when that Department requests the information for the purpose of administering Chapter 116B of the General Statutes, and (ii) taxpayers to the Employment Security Commission when that Commission requests the information for the purpose of administering Article 2 of Chapter 96 of the General Statutes. Neither this section nor any other law prevents the exchange of information between the Department of Revenue and the Department of Transportation's Division of Motor Vehicles when the information is needed by either to administer the laws with which they are charged. Notwithstanding any other provision of law, State officers and employees who perform computerized data processing functions pursuant to G.S. 143-341(9) for the Department of Revenue are authorized to receive and process for the Department of Revenue information in reports and returns and are subject to the criminal provisions of this section.~~

~~Notwithstanding the provisions of this section, the Secretary of Revenue may contract with any person, firm or corporation to receive and address, sort, bag, or deliver to the United States Postal Service any bulk mailing originated by the Department of Revenue, and may deliver the mail to the contractor pursuant to the contract. To ensure performance of the contract, the contractor shall furnish a bond in a form and amount acceptable to the Secretary.~~

~~Notwithstanding the provisions of this section, the Secretary of Revenue may contract with a financial institution for the receipt of withheld income tax payments under G.S. 105-163.6.~~

(a) Definitions. -- The following definitions apply in this section:

(1) Employee or officer. -- The term includes a former employee, a former officer, and a current or former member of a State board or commission.

(2) Tax information. -- Any information from any source concerning the liability of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the following:

a. Information contained on a tax return, a tax report, or an application for a license for which a tax is imposed.

b. Information obtained through an audit of a taxpayer or by correspondence with a taxpayer.

c. Information on whether a taxpayer has filed a tax return or a tax report.

d. A list or other compilation of the names, addresses, social security numbers, or similar information concerning taxpayers.

The term does not include (i) statistics classified so that information about specific taxpayers cannot be identified or (ii) information submitted to the Business License Information Office of the Department of Secretary of State on a master application form for various business licenses.

(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

(1) To comply with a court order or a law.

(2) Review by the Attorney General or a representative of the Attorney General.

(3) Review by a tax official of another state or the Internal Revenue Commissioner of the United States to aid the state or the Commissioner in collecting a tax imposed by this State, the other state, or the United States if the laws of the other state or the United States allow the state or the United States to provide similar tax information to a representative of this State.

(4) To provide a governmental agency or an officer of an organized association of taxpayers with a list of taxpayers who have paid a privilege license tax under Article 2 of this Chapter.

(5) To furnish to the chair of a board of county commissioners information on the county sales and use tax.

(6) To sort, process, or deliver tax information on behalf of the Department of Revenue.

(7) To exchange information with the Division of Motor Vehicles of the Department of Transportation when the information is needed to fulfill a duty imposed on the Department of Revenue or the Division of Motor Vehicles.

(8) To furnish to the Department of State Treasurer, upon request, the name, address, and account and identification numbers of a taxpayer who may be entitled to property held in the Escheat Fund.

(9) To furnish to the Employment Security Commission the name, address, and account and identification numbers of a taxpayer when the information is requested by the Commission in order to fulfill a duty imposed under Article 2 of Chapter 96 of the General Statutes.

(10) Review by the State Auditor to the extent authorized in G.S. 147-64.7.

(11) To give a spouse who elects to file a joint tax return a copy of the return or information contained on the return.

(12) To contract with a financial institution for the receipt of withheld income tax payments under G.S. 105-163.6 or for the transmittal of payments by electronic funds transfer.

(13) To furnish the Fiscal Research Division of the General Assembly, upon request, a sample, suitable in character, composition, and size for statistical analyses, of tax returns or other tax information from which taxpayers' names and identification numbers have been removed.

(14) To exchange information concerning a tax imposed by Subchapter V of this Chapter with the Standards Division of the Department of Agriculture when the information is needed to administer the Gasoline and Oil Inspection Act, Article 3 of Chapter 119 of the General Statutes.

(15) To exchange information concerning a tax imposed by Articles 2A, 2B, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the agency:

a. The North Carolina Alcoholic Beverage Control Commission.

b. The Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety.

c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department.

(16) To furnish to the Department of Secretary of State the name, address, and account and identification numbers of a corporation liable for corporate income or franchise taxes to enable the Secretary of State to notify the corporation of

the annual report filing requirement or that its articles of incorporation or its certificate of authority has been suspended.

(17) To inform the Business License Information Office of the Department of Secretary of State of the status of an application for a license for which a tax is imposed and of any information needed to process the application.

(18) To furnish to the Office of the State Controller the name, address, and account and identification numbers of a taxpayer upon request to enable the State Controller to verify statewide vendor files or track debtors of the State.

(c) Punishment. -- A person who violates this section is guilty of a misdemeanor and may be fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000), imprisoned for up to two years, or both. If the person committing the violation is an officer or employee, that person shall be dismissed from public office or public employment and may not hold any public office or public employment in this State for five years after the violation."

Sec. 32. G.S. 75-28 reads as rewritten:

"*§ 75-28. Unauthorized disclosure of tax information; violation a misdemeanor.*

Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for any person, firm or corporation employed or engaged to prepare, or who or which prepares or undertakes to prepare, for any other person or taxpayer any tax form, report or return, to disclose, divulge or make known in any manner or use for any purpose or in any manner other than in the preparation of such form, report or return, without the express consent of the taxpayer or person for whom the form or return is prepared, the name or address of the taxpayer or such other person, the amount of income, income tax or other taxes, or any other information shown on or included in such form, report or return, or any information which may be or may have been furnished by the taxpayer or such other person to the preparer of such form, report or return or to the person, firm or corporation so employed or engaged.

~~Nothing in this section shall be construed to amend or modify the authority specified in G.S. 105-276(6) or any statute enacted in substitution therefor.~~

Nothing in this section shall be construed to prohibit the ~~inspection of such forms, reports or returns required under Subchapter I of Chapter 105 of the General Statutes in accordance with the authority provided in G.S. 105-259, or the~~ examination of any person, books, papers, records or other data in accordance with the authority provided in G.S. 105-258.

Any person, firm or corporation, or any officer, agent, clerk, employee, or former officer or employee, of any firm or corporation engaged or formerly engaged in the preparation of tax forms, reports or returns for others, whether acting for himself or as agent for such corporation, who or which shall violate the provisions of this section shall be guilty of a misdemeanor and shall be fined or imprisoned in the discretion of the court."

Sec. 33. Article 7 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"*§ 153A-148.1. Disclosure of certain information prohibited.*

(a) Disclosure Prohibited. -- Notwithstanding Chapter 132 of the General Statutes or any other law regarding access to public records, local tax records that contain information about a taxpayer's income or receipts are not public records. A current or former officer, employee, or agent of a county who in the course of service to or employment by the county has access to information about the amount of a taxpayer's income or receipts may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

(1) To comply with a court order or a law.

(2) Review by the Attorney General or a representative of the Attorney General.

(3) To sort, process, or deliver tax information on behalf of the county, as necessary to administer a tax.

(b) Punishment. -- A person who violates this section is guilty of a misdemeanor and may be fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000), imprisoned for up to two years, or both. If the person committing the violation is an officer or employee, that person shall be dismissed from public office or public employment and may not hold any public office or public employment in this State for five years after the violation."

Sec. 34. Article 9 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"*§ 160A-208.1. Disclosure of certain information prohibited.*

(a) Disclosure Prohibited. -- Notwithstanding Chapter 132 of the General Statutes or any other law regarding access to public records, local tax records that contain information about a taxpayer's income or receipts are not public records. A current or former officer, employee, or agent of a city who in the course of service to or employment by the city has access to information about the amount of a taxpayer's income or receipts may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

(1) To comply with a court order or a law.

(2) Review by the Attorney General or a representative of the Attorney General.

(3) To sort, process, or deliver tax information on behalf of the city, as necessary to administer a tax.

(b) Punishment. -- A person who violates this section is guilty of a misdemeanor and may be fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000), imprisoned for up to two years, or both. If the person committing the violation is an officer or employee, that person shall be dismissed from public office or public employment and may not hold any public office or public employment in this State for five years after the violation."

Sec. 35. G.S. 105-289(e) reads as rewritten:

"(e) The Department of Revenue may furnish the following information to a local tax official:

(1) Information contained in a report to it or to any other State department; and

(2) Information the Department has in its possession that may assist a local tax official in securing complete tax listings, appraising or assessing taxable property, collecting taxes, or presenting information in administrative or judicial proceedings involving the listing, appraisal, or assessment of property.

A local tax official may use information obtained from the Department under this subsection only for the purposes stated in subdivision (2). A local tax official may not divulge or make public this information except as required in administrative or judicial proceedings under this Subchapter. A local tax official who makes improper use of or discloses information obtained from the Department under this subsection is punishable as provided in G.S. ~~105-259,~~ 153A-148.1 or G.S. 160A-208.1, as appropriate.

The Department may not furnish information to a local tax official pursuant to this subsection unless it has obtained a written certification from the official stating that ~~he~~ the official is familiar with the provisions of ~~both~~ this subsection and G.S. ~~105-259~~ 153A-148.1 or G.S. 160A-208.1, as appropriate, and that information obtained from the Department under this subsection will be used only for the purposes stated in subdivision (2)."

Sec. 36. G.S. 105-449.57 reads as rewritten:

"*§ 105-449.57. Cooperative agreements between states.*

The Secretary may enter into cooperative agreements with other states for exchange of information in administering the tax imposed by this Article. No agreement, arrangement, declaration, or amendment to an agreement is effective until stated in writing and approved by the Secretary.

An agreement may provide for determining the base state for motor carriers, records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods, including defining uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of gasoline or other motor fuel taxes and penalties to another jurisdiction, and such other provisions as will facilitate the administration of the agreement.

~~Notwithstanding the provisions of G.S. 105-259 to the contrary,~~ In accordance with G.S. 105-259, the Secretary may, as required by the terms of an agreement, forward to officials of another state any information in the Department's possession relative to the use of gasoline or other motor fuels by any motor carrier. The Secretary may disclose to officials of another state the location of offices, motor vehicles, and other real and personal property of motor carriers.

An agreement may provide for each state to audit the records of motor carriers based in the state to determine if the gasoline or other motor fuel taxes due each state are properly reported and paid. Each state shall forward the findings of the audits performed on motor carriers based in the state to each state in which the carrier has taxable use of gasoline or other motor fuels. For motor carriers not based in this State who have taxable use of gasoline or other motor fuels in this State, the Secretary may utilize the audit findings received from another state as the basis upon which to propose assessments of gasoline or other motor fuel taxes against the carrier as though the audit had been conducted by the Secretary. Penalties and interest shall be assessed at the rates provided in the agreement.

No agreement entered into pursuant to this section may preclude the Department from auditing the records of any motor carrier covered by this Chapter.

The provisions of Article 9 of this Chapter apply to any assessment or order made under this section.

The Secretary may not enter into any agreement that would increase or decrease taxes and fees imposed under Subchapter V of Chapter 105 of the General Statutes, and any provision to the contrary is void."

Sec. 37. G.S. 120-19 reads as rewritten:

"*§ 120-19. State officers, etc., upon request, to furnish data and information to legislative committees.*

~~All~~ Except as provided in G.S. 105-259, all officers, agents, agencies and departments of the State are required to give to any committee of the General Assembly, upon request, all information and all data within their possession, or ascertainable from their records.

This requirement is mandatory and shall include requests made by any individual member of the General Assembly or ~~any~~ one of its committees or ~~chairmen thereof,~~ the chair of a committee."

Sec. 38. G.S. 132-1.1 reads as rewritten:

"§ *132-1.1. Confidential communications by legal counsel to public board or agency; ~~not public records.~~ State tax information.*

(a) Confidential Communications. -- Public records, as defined in G.S. 132-1, shall not include written communications (and copies thereof) to any public board, council, commission or other governmental body of the State or of any county, municipality or other political subdivision or unit of government, made within the scope of the attorney-client relationship by any attorney-at-law serving any such governmental body, concerning any claim against or on behalf of the governmental body or the governmental entity for which such body acts, or concerning the prosecution, defense, settlement or litigation of any judicial action, or any administrative or other type of proceeding to which the governmental body is a party or by which it is or may be directly affected. Such written communication and copies thereof shall not be open to public inspection, examination or copying unless specifically made public by the governmental body receiving such written communications; provided, however, that such written communications and copies thereof shall become public records as defined in G.S. 132-1 three years from the date such communication was received by such public board, council, commission or other governmental body.

(b) State Tax Information. -- Tax information may not be disclosed except as provided in G.S. 105-259, 153A-148.1, and 160A-208.1. As used in this subsection, 'tax information' has the same meaning as in G.S. 105-259."

Sec. 39. G.S. 132-3 reads as rewritten:

"§ *132-3. Destruction of records regulated.*

(a) Prohibition. -- No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5, without the consent of the Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, defaces, mutilates or destroys it shall be guilty of a misdemeanor and upon conviction fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00).

(b) Revenue Records. -- Notwithstanding subsection (a) of this section and G.S. 121-5, when a record of the Department of Revenue has been copied in any manner, the original record may be destroyed upon the order of the Secretary of Revenue. If a record of the Department of Revenue has not been copied, the original record shall

be preserved for at least three years. After three years the original record may be destroyed upon the order of the Secretary of Revenue."

Sec. 40. Except as otherwise provided in this act, this act is effective upon ratification. Sections 20 and 21 of this act apply to offenses committed on or after the date of ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 533 **CHAPTER 486**

AN ACT TO INSTITUTE A STATEWIDE REPORTING SYSTEM FOR OCCUPATIONAL DISEASES, ILLNESSES, AND INJURIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130A of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 20.

"Occupational Health.

"§ *130A-455. Reportable diseases, illnesses, and injuries.*

The Commission shall adopt rules establishing a list of serious and preventable occupational injuries that occur while working on a farm, and serious and preventable occupational diseases and illnesses to be reported to the Department. Occupational diseases and illnesses are defined as those diseases and illnesses which result from exposure to a health hazard in the workplace. The Commission shall adopt rules establishing the specific information to be submitted when making a report required by this Article, time limits for reporting, and the form of the report. The rules adopted by the Commission shall avoid duplication of reporting and minimize the cost to the physicians, medical facilities, laboratories, or other persons reporting under this act.

"§ *130A-456. Physicians to report.*

A physician licensed to practice medicine in this State who treats a person for an occupational injury that occurred while working on a farm or an occupational disease, illness, declared by the Commission to be reportable, shall report the information required by the Commission to the Department.

"§ *130A-457. Medical facilities to report.*

A medical facility in which there is a patient who has an occupational injury that occurred while working on a farm, or an occupational disease, illness, declared by the Commission to be reportable, may report information specified by the Commission to the Department.

"§ *130A-458. Persons in charge of laboratories to report.*

A person in charge of a clinical or pathological laboratory providing diagnostic service in this State shall report to the Department laboratory findings related to occupational diseases, illnesses, for which laboratory reporting is required by the Commission.

"§ *130A-459. Immunity of persons who report.*

A person who in good faith makes a report pursuant to the provisions of this Article shall be immune from any civil liability that might otherwise be incurred or imposed as a result of making the report.

"§ *130A-460. Report to Department of Labor.*

(a) Each report to the Department pursuant to the Article shall be evaluated for its potential indication of an exposure to a health hazard. If an on-site visit is deemed necessary, a copy of the report for work sites for which the Department of Labor has jurisdiction for the enforcement of occupational health laws shall be forwarded to the Department of Labor. The Department of Labor and the Department may exchange information regarding specific workplaces and conditions and such information shall retain the same confidentiality provided by the originating agency.

(b) If the Department of Labor determines that an on-site visit is necessary for enforcement purposes, the Department of Labor shall inform the Department within 30 days of the receipt of the report, and a representative of the Department may participate in the visit. The Department shall not contact or otherwise notify any employer of a pending investigation prior to the determination by the Department of Labor regarding the necessity of an on-site visit and shall not give advance notice of a visit if one is necessary.

(c) Subsection (b) shall not apply to inspections conducted for the Industrial Commission pursuant to G.S. 97-76 and shall not affect the allocation of responsibilities set forth in G.S. 74-24.4(c)."

Sec. 2. This act becomes effective January 1, 1994.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 544 **CHAPTER 487**

AN ACT TO AMEND VARIOUS STATUTES PERTAINING TO EARLY INTERVENTION SERVICES FROM BIRTH TO FIVE YEARS OF AGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-179.5 reads as rewritten:

"§ 143B-179.5. Interagency Coordinating Council for ~~Handicapped~~ Children from Birth to Five ~~Years of Age~~ with Disabilities and Their Families; establishment, composition, organization; duties, compensation, reporting.

(a) There is established an Interagency Coordinating Council for ~~Handicapped~~ Children from Birth to Five ~~Years of Age~~ with Disabilities and Their Families in the Department of Human Resources.

(b) The Interagency Coordinating Council ~~for Early Intervention Services~~ shall have 26 members, appointed by the ~~Governor, for terms of two years and until their successors are appointed and qualify.~~ Governor. Effective July 1, 1994, the Governor shall designate 13 appointees to serve for two years and 13 appointees to serve for one year. Thereafter, the terms of all Council members shall be two years. The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. Members may be appointed to succeed themselves for one term and may be appointed again, after being off the Council for one term.

The composition of the Council and the designation of the Council's chair shall be as ~~follows:~~ specified in the 'Individuals with Disabilities Education Act' (IDEA), P.L. 102-119, the federal early intervention legislation, except that two members shall be members of the Senate, appointed from recommendations of the President Pro Tempore of the Senate and two members shall be members of the House of Representatives, appointed from recommendations of the Speaker of the House of Representatives.

~~(1) At least three members who are parents of infants or toddlers eligible for services pursuant to G.S. 122C-3(13a) or of handicapped children aged three through six;~~

~~(2) At least three other members who are providers of early intervention services;~~

~~(3) Two members of the Senate, appointed from recommendations of the President Pro Tempore and two members of the House of Representatives, appointed from recommendations of the Speaker;~~

~~(4) At least one other member who is a person involved in staff development;~~

~~(5) Other members who represent the Department of Public Instruction, the Department of Human Resources, the Department of Environment, Health, and Natural Resources, and other appropriate agencies involved in the provision of~~

~~or payment for early intervention services to infants and toddlers and their families; and~~

~~(6) At least eight members to represent the public at large.~~

(c) ~~At the first meeting following the appointments, the Council shall elect a parent and a professional as cochairs, who~~ The chair may establish those standing and ad hoc committees and task forces as may be necessary to carry out the functions of the Council and appoint Council members or other individuals to serve on these committees and task forces. The Council shall meet at least quarterly. A majority of the Council shall constitute a quorum for the transaction of business.

(d) The Council shall advise the Departments of Human Resources, and Environment, Health, and Natural Resources, and other appropriate agencies in carrying out their early intervention services, and the Department of Public Instruction, and other appropriate agencies, in their activities related to the provision of special education services for preschoolers. The Council shall specifically address in its studies and evaluations that it considers necessary to its advising:

(1) The identification of sources of fiscal and other support for the early intervention system;

(2) The development of policies related to the early intervention services;

(3) The preparation of applications for available federal funds;

(4) The resolution of interagency disputes; and

(5) The promotion of interagency agreements.

(e) Members of the Council and parents on ad hoc committees and task forces of the Council shall receive travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) The Council shall prepare and submit an annual report to the Governor and to the General Assembly on the status of the early intervention system for eligible infants and toddlers and on the status of special education services for preschoolers.

All clerical and other services required by the Council shall be supplied by the Secretary of Human Resources and the Superintendent of Public Instruction, as specified by the interagency agreement authorized by G.S. 122C-112(a)(13)."

Sec. 2. G.S. 122C-112(a) reads as rewritten:

"(a) The Secretary shall:

(1) Enforce the provisions of this Chapter and the rules of the Commission and the Secretary;

(2) Assist counties and area authorities in the establishment and operation of community-based programs within

catchment areas specified in rules adopted by the Commission;

(3) Operate State facilities and adopt rules pertaining to their operation;

(4) Promote a unified system of services for the citizens of this State by coordinating services provided in State facilities and area facilities;

(5) Approve the plans and budgets of an area authority and adopt rules pertaining to the content and format of these plans and budgets;

(6) Adopt rules governing the expenditure of all area authority funds;

(7) Adopt rules for the establishment of single portal designation and approve an area as a single portal area;

(8) Except as provided in G.S. 122C-26(4), adopt rules establishing procedures for waiver of rules adopted by the Secretary under this Chapter;

(9) Notify the clerks of superior court of changes in the designation of State facility regions and of facilities designated under G.S. 122C-252;

(10) Promote public awareness and understanding of mental health, mental illness, developmental disabilities, and substance abuse;

(11) Administer and enforce rules that are conditions of participation in federal or State financial aid;

(12) Carry out G.S. 122C-361; and

(13) Ensure, in cooperation with other appropriate agencies, that all types of early intervention services specified in the 'Individuals with Disabilities Education Act (IDEA), P.L. 102-119, the federal early intervention legislation, are available to all eligible infants and toddlers and their families to the extent funded by the General Assembly.

The Secretary shall coordinate ~~Coordinate~~ and facilitate the development and administration of the early intervention system for eligible infants and toddlers and shall assign among the cooperating agencies the responsibility, including financial responsibility, for services. The Secretary shall be advised by the Interagency Coordinating Council for ~~Handicapped~~ Children from Birth to Five ~~Years of Age,~~ with Disabilities and Their Families, established by G.S. 143B-179.5, and may enter into formal interagency agreements to establish the collaborative relationships with the Department of Environment, Health, and Natural Resources, the Department of Public Instruction, other

appropriate agencies, and other public and private service providers necessary to administer the system and deliver the services.

The Secretary shall adopt rules to implement the early intervention system, in cooperation with all other appropriate agencies."

Sec. 3. G.S. 122C-146 reads as rewritten:

"§ *122C-146. Fee for service.*

The area authority and its contractual agencies shall prepare fee schedules for services and shall make every reasonable effort to collect appropriate reimbursement for costs in providing these services from individuals or entities able to pay, including insurance and third-party payment, except that individuals may not be charged for ~~services involving multidisciplinary evaluations, intervention plan development, and case management services~~ free services, as required in 'The Amendments to the Education of the Handicapped Act', P.L. 99-457, provided to eligible infants and toddlers and their families. This exemption from charges does not exempt insurors or other third-party payors from being charged for payment for these ~~services.~~ services, if the person who is legally responsible for any eligible infant or toddler is first advised that the person may or may not grant permission for the insurer or other payor to be billed for the free services. However, no individual may be refused services because of an inability to pay. All funds collected from fees from area authority operated services shall be used for the fiscal operation or capital improvements of the area authority's programs. The collection of fees by an area authority may not be used as justification for reduction or replacement of the budgeted commitment of local tax revenue."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 625 **CHAPTER 488**

AN ACT TO AMEND THE GENERAL STATUTES IN ORDER TO ALLOW FULL IMPLEMENTATION OF THE FLEXIBLE FUNDING AND ALTERNATIVE USES AUTHORIZED UNDER THE FEDERAL INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18(12) reads as rewritten:

"(12) The Department of Transportation shall have such powers as are necessary to comply fully with the provisions of the

~~present or future federal aid acts.~~ Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240, 105 Stat. 1914 (1991), as amended, and all other federal aid acts and programs the Department is authorized to administer. The said Department of Transportation is hereby authorized to enter into all contracts and agreements with the United States government relating to survey, construction, improvement and maintenance of roads, urban area traffic operations studies and improvement projects on the streets on the State highway system and on the municipal system in urban areas, under the provisions of the present or future congressional enactments, to submit such scheme or program of construction or improvement and maintenance as may be required by the Secretary of Transportation or otherwise provided by federal acts, and to do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future aid acts of Congress for the construction or improvement and maintenance of federal aid of State highways. The good faith and credit of the State are further hereby pledged to make available funds necessary to meet the requirements of the acts of Congress, present or future, appropriating money to construct and improve rural post roads and apportioned to this State during each of the years for which federal funds are now or may hereafter be apportioned by the said act or acts, to maintain the roads constructed or improved with the aid of funds so appropriated and to make adequate provisions for carrying out such construction and maintenance. The good faith and credit of the State are further pledged to maintain such roads now built with federal aid and hereafter to be built and to make adequate provisions for carrying out such maintenance. Upon request of the Department of Transportation and in order to enable it to meet the requirements of acts of Congress with respect to federal aid funds apportioned to the State of North Carolina, the State Treasurer is hereby authorized, with the approval of the Governor and Council of State, to issue short term notes from time to time, and in anticipation of State highway revenue, and to be payable out of State highway revenue for such sums as may be necessary to enable the Department of Transportation to meet the requirements of said federal aid appropriations, but in no event shall the

outstanding notes under the provisions of this section amount to more than two million dollars ($2,000,000)."

Sec. 2. G.S. 136-44.20(d) reads as rewritten:

"(d) Of the amount appropriated to the Department each year for State construction under the Transportation Improvement Program, the Department may use up to five million dollars ($5,000,000) to develop economical transit alternatives to highway construction. These alternatives may include high occupancy vehicle lanes and rail ~~routes.~~ routes and providing the matching share of federal grants for transit alternatives to highway construction."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 799 **CHAPTER 489**

AN ACT TO PROVIDE THAT A DEFENDANT, AFTER A FINDING OF PROBABLE CAUSE OR INDICTMENT FOR COMMITTING A NONCONSENSUAL SEX OFFENSE, SHALL BE TESTED FOR CERTAIN SEXUALLY TRANSMITTED INFECTIONS UPON THE REQUEST OF THE VICTIM.

The General Assembly of North Carolina enacts:

Section 1. Article 30 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"*§ 15A-615. Testing of certain persons for sexually transmitted infections.*

(a) After a finding of probable cause or indictment for an offense that involves nonconsensual vaginal, anal, or oral intercourse or that involves vaginal, anal, or oral intercourse with a child 12 years old or less, the victim or the parent, guardian, or guardian *ad litem* of a minor victim may request that a defendant be tested for the following sexually transmitted infections:

(1) Chlamydia;
(2) Gonorrhea;
(3) Hepatitis B;
(4) HIV; and
(5) Syphilis.

(b) Upon a request under subsection (a) of this section, the district attorney shall petition the court on behalf of the victim for an order requiring the defendant to be tested. Upon finding that there is probable cause to believe that the alleged sexual contact involved in the offense would pose a significant risk of transmission of a sexually

transmitted infection listed in subsection (a) of this section, the court shall order the defendant to submit to testing for these infections.

(c) If the defendant is in the custody of the Department of Correction, the defendant shall be tested by the Department of Correction. If the defendant is not in the custody of the Department of Correction, the defendant shall be tested by the local health department. The Department of Correction shall inform the local health director of all test results. The local health director shall ensure that the victim is informed of the results of the tests and counseled appropriately. The agency conducting the tests shall inform the defendant of the results of the tests and ensure that the defendant is counseled appropriately. The results of the tests shall not be admissible as evidence in any criminal proceeding."

Sec. 2. This act becomes effective 1 October 1993, and applies to offenses occurring on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 836 **CHAPTER 490**

AN ACT TO WAIVE THE FEE FOR SPECIAL IDENTIFICATION CARDS FOR HOMELESS PERSONS AND TO ABOLISH THE RESERVE FUND FOR FEES COLLECTED FOR SPECIAL IDENTIFICATION CARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-37.7(d) reads as rewritten:

"(d) A special identification card issued to a person for the first time under this section ~~shall expire on the birth date of the holder in the fourth year of issuance. The~~ expires when a drivers license issued on the same day to that person would expire. A special identification card renewed under this section expires when a drivers license renewed by the card holder on the same day would expire.

The fee for ~~the issuance or reissuance of~~ a special identification card is the same as the fee set in G.S. 20-14 for ~~issuing~~ a duplicate license. ~~A special identification card may be issued without fee~~ The fee does not apply to a special identification card issued to a resident of ~~North Carolina~~ this State who is legally ~~blind or has attained the age of 70,~~ blind, is at least 70 years old, or is homeless. To obtain a special identification card without paying a fee, a homeless person must present a letter to the Division from the director of a facility that provides care or shelter to homeless persons verifying that the person is homeless.

~~The fees collected for the issuance of special identification cards to persons under the age of 16 shall be placed in a reserve fund to cover the cost of the operation of the program required by this Article.~~"

Sec. 2. Section 3 of Chapter 368 of the 1993 Session Laws is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 897 **CHAPTER 491**

AN ACT TO ELIMINATE THE REQUIREMENT THAT CITY OR COUNTY PROPERTY CONVEYANCES TO A NONPROFIT ENTITY AT PRIVATE SALE RECEIVE A UNANIMOUS VOTE OF THE GOVERNING BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-279(c) is repealed, including that subsection as it applies locally under any local act, including Chapter 354, Session Laws of 1989, and Chapter 319, Session Laws of 1991.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 913 **CHAPTER 492**

AN ACT TO REQUIRE ANNUAL CONTINUING EDUCATION FOR REAL ESTATE BROKERS AND SALESPERSONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 93A of the General Statutes is amended by adding a new section to read:

"*§ 93A-4A. Continuing education.*

(a) The Commission shall establish a program of continuing education for real estate brokers and salespersons. A person licensed as a real estate broker or salesperson must present evidence to the Commission upon the second license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the person has completed eight classroom hours of real estate instruction in courses approved by the Commission.

(b) The Commission shall establish procedures allowing for a deferral of continuing education for brokers and salespersons while they are not actively engaged in real estate brokerage.

(c) The Commission may adopt any reasonable rules not inconsistent with this Chapter to give purpose and effect to the continuing education requirement, including rules that govern:

(1) The content and subject matter of continuing education courses.

(2) The curriculum of courses required.

(3) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.

(4) The methods of instruction.

(5) The computation of course credit.

(6) The ability to carry forward course credit from one year to another.

(7) The deferral of continuing education for brokers and salespersons not engaged in brokerage.

(8) The waiver of or variance from the continuing education requirement for hardship or other reasons.

(9) The procedures for compliance and sanctions for noncompliance.

(d) The Commission may establish a nonrefundable course application fee to be charged to a course sponsor for the review and approval of a proposed continuing education course. The fee shall not exceed one hundred twenty-five dollars ($125.00) per course. The Commission may charge the sponsor of an approved course a nonrefundable fee not to exceed seventy-five dollars ($75.00) for the annual renewal of course approval.

The Commission may also require a course sponsor to pay a fee for each licensee completing an approved continuing education course conducted by the sponsor. The fee shall not exceed five dollars ($5.00) per licensee.

The Commission shall not charge a course application fee, a course renewal fee, or any other fee for a continuing education course sponsored by a community college, junior college, college, or university located in this State and accredited by the Southern Association of Colleges and Schools.

(e) The Commission may award continuing education credit for an unapproved course or related educational activity. The Commission may prescribe procedures for a licensee to submit information on an unapproved course or related educational activity for continuing education credit. The Commission may charge a fee to the licensee for each course or activity submitted. The fee shall not exceed fifty dollars ($50.00)."

Sec. 2. G.S. 115D-5 is amended by adding a new subsection to read:

"(g) Whenever a community college offers real estate continuing education courses pursuant to G.S. 93A-4A, the courses shall be offered on a self-supporting basis."

Sec. 3. This act becomes effective upon ratification and applies to the renewal of real estate broker and salesperson licenses during 1995 and every year thereafter.

In the General Assembly read three times and ratified this the 23rd of July, 1993.

S.B. 961 **CHAPTER 493**

AN ACT TO ALLOW CERTAIN COUNTIES TO REGULATE JUNKYARDS ON NORTH CAROLINA ROUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-142 reads as rewritten:

"§ *136-142. Declaration of policy.*

The General Assembly hereby finds and declares that although junkyards are a legitimate business, the establishment and use and maintenance of junkyards in the vicinity of the interstate and primary highways or within the vicinity of North Carolina routes in counties that have no interstate or federal aid primary highways within the State should be regulated and controlled in order to promote the safety, health, welfare and convenience and enjoyment of travel on and the protection of the public investment in highways within the State, to prevent unreasonable distraction of operators of motor vehicles and to prevent interference with the effectiveness of traffic regulations, to attract tourists and promote the prosperity, economic well-being and general welfare of the State, and to preserve and enhance the natural scenic beauty of the highways and areas in the vicinity. It is the intention of the General Assembly to provide and declare herein a public policy and statutory basis for regulation and control of junkyards."

Sec. 2. G.S. 136-144 reads as rewritten:

"§ *136-144. Restrictions as to location of junkyards.*

No junkyard shall be established, operated or maintained, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway, or a North Carolina route in a county that has no interstate or federal aid primary highways, except the following:

(1) Those which are screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main-traveled way of the highway at any season of the year or otherwise removed from sight or screened in

accordance with the rules and regulations promulgated by the Department of Transportation.

(2) Those located within areas which are zoned for industrial use under authority of law.

(3) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by regulations to be promulgated by the Department of Transportation.

(4) Those which are not visibile from the main-traveled way of an interstate or primary highway or a North Carolina route in a county that does not have an interstate or federal aid primary highway at any season of the year."

Sec. 3. G.S. 136-147 reads as rewritten:

"§ *136-147. Screening of junkyards lawfully in existence.*

Any junkyard lawfully in existence on the effective date of this Article as determined by G.S. 136-155 which does not conform to the requirements for exceptions in G.S. 136-144 hereof, and any other junkyard lawfully in existence along any highway which may be hereafter designated as an interstate or primary highway or a North Carolina route in a county without an interstate or federal aid primary highway and which does not conform to the requirements for exception under G.S. 136-144 hereof, shall be screened, if feasible, by the Department of Transportation at locations on the highway right-of-way or in areas acquired for such purposes outside the right-of-way in such manner that said junkyard shall not be visible from the main-traveled way of such highways. The Department of Transportation is authorized to acquire fee simple title or any lesser interest in real property for the purpose required by this section, by gift, purchase or condemnation."

Sec. 4. G.S. 136-149 reads as rewritten:

"§ *136-149. Permit required for junkyards.*

No person shall establish, operate or maintain a junkyard any portion of which is within 1,000 feet of the nearest edge of the right-of-way of the interstate or primary system or a North Carolina route in a county that does not have an interstate or federal aid primary highway without obtaining a permit from the Department of Transportation or its agents pursuant to the procedures set out by the rules and regulations promulgated by the Department of Transportation. No permit shall be issued under the provisions of this section for the establishment, operation or maintenance of a junkyard within 1,000 feet to the nearest edge of the right-of-way of interstate or primary system except those junkyards which conform to one or more of the exceptions of G.S. 136-144. The permit shall be valid until revoked for the nonconformance of this Article or rules and

regulations promulgated by the Department of Transportation thereunder. Any person aggrieved by the decision of the Department of Transportation or its agents in refusing to grant or revoking a permit may appeal the decision in accordance with the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision upon the agency appeal. The Department of Transportation shall have the authority to charge fees to defray the costs of administering the permit procedures under this Article. The fees for junkyard permits to be issued under this Article shall not exceed a twenty dollar ($20.00) initial fee and a fifteen dollar ($15.00) annual renewal fee."

Sec. 5. This act is effective upon ratification and applies to all counties with no interstate or federal aid primary highways as of the effective date of this act.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 1018 **CHAPTER 494**

AN ACT TO CLARIFY THAT REAL ESTATE MORTGAGE INVESTMENT CONDUITS WILL BE TREATED AS PASS-THROUGH ENTITIES FOR STATE TAX PURPOSES TO THE SAME EXTENT AS UNDER THE FEDERAL TAX LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-125 reads as rewritten:

"§ *105-125. Corporations not mentioned.*

None of the taxes levied in this Article shall apply to charitable, religious, fraternal, benevolent, scientific or educational corporations, not operating for a profit; nor to insurance companies; nor to mutual ditch or irrigation associations, mutual or cooperative telephone associations or companies, mutual canning associations, cooperative breeding associations, or like organizations or associations of a purely local character deriving receipts solely from assessments, dues, or fees collected from members for the sole purpose of meeting expenses; nor to cooperative marketing associations operating solely for the purpose of marketing the products of members or other farmers, which operations may include activities which are directly related to such marketing activities, and turning back to them the proceeds of sales, less the necessary operating expenses of the association, including interest and dividends on capital stock on the basis of the quantity of product furnished by them; nor to production credit associations organized under the act of Congress known as the Farm Credit Act of

1933; nor to business leagues, boards of trade, clubs organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, civic leagues operated exclusively for the promotion of social welfare, or chambers of commerce and merchants' associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private stockholder, individual or other corporations; nor to corporations or organizations, such as condominium associations, homeowner associations or cooperative housing corporations not organized for profit, the membership of which is limited to the owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation, and operated exclusively for the management, operation, preservation, maintenance or landscaping of the common areas and facilities owned by such corporation or organization or its members situated contiguous to such houses, apartments or other dwellings or for the management, operation, preservation, maintenance and repair of such houses, apartments or other dwellings owned by the corporation or organization or its members, but only if no part of the net earnings of such corporation or organization inures (other than through the performance of related services for the members of such corporation or organization) to the benefit of any member of such corporation or organization or other person. In addition, absent a specific provision to the contrary, the taxes levied in this Article do not apply to any organization that is exempt from federal income tax under the Code.

Provided, that each such corporation must, upon request by the Secretary of Revenue, establish in writing its claim for exemption from said provisions. The provisions of G.S. 105-122 shall apply to electric light, power, gas, water, Pullman, sleeping and dining car, express, telegraph, telephone, motor bus, and truck corporations to the extent and only to the extent that the franchise taxes levied in G.S. 105-122 exceed the franchise taxes levied in other sections of this Article or schedule; except that the provisions of G.S. 105-122 shall not apply to businesses taxed under G.S. 105-120.1. The exemptions in this section shall apply only to those corporations specially mentioned, and no other.

Provided, that any corporation doing business in North Carolina which in the opinion of the Secretary of Revenue of North Carolina, qualifies as a 'regulated investment company' under section 851 of the Code or as a 'real estate investment trust' under the provisions of section 856 of the Code and which files with the North Carolina Department of Revenue its election to be treated as a 'regulated investment company' or as a 'real estate investment trust,' shall in determining its basis for franchise tax be allowed to deduct the

aggregate market value of its investments in the stocks, bonds, debentures, or other securities or evidences of debt of other corporations, partnerships, individuals, municipalities, governmental agencies or governments.

Provided, that an entity that qualifies as a real estate mortgage investment conduit, as defined in section 860D of the Code, is exempt from all of the taxes levied in this Article. Upon request by the Secretary of Revenue, a real estate mortgage investment conduit must establish in writing its qualification for this exemption."

Sec. 2. G.S. 105-130.11 is amended by adding a new subsection to read:

"(d) Real Estate Mortgage Investment Conduits. -- An entity that qualifies as a real estate mortgage investment conduit, as defined in section 860D of the Code, is exempt from the tax imposed under this Division, except that any net income derived from a prohibited transaction, as defined in section 860F of the Code, is taxable to the real estate mortgage investment conduit under G.S. 105-130.3 and G.S. 105-130.3A, subject to the adjustments provided in G.S. 105-130.5. This subsection does not exempt the holders of a regular or residual interest in a real estate mortgage investment conduit as defined in section 860G of the Code from any tax on the income from that interest."

Sec. 3. G.S. 105-212(c) reads as rewritten:

"(c) ~~Any corporation or trust doing business in North Carolina which in the opinion of the Secretary of Revenue of North Carolina qualifies~~ The taxes levied in this Article do not apply to an entity that is treated for federal tax purposes as a 'regulated investment company' under section 851 of the ~~Code or~~ Code, as a 'real estate investment trust' under ~~the provisions of~~ section 856 of the ~~Code~~ Code, or as a 'real estate mortgage investment conduit' under section 860D of the Code. ~~and which files with the North Carolina Department of Revenue its election to be treated as a 'regulated investment company' or 'real estate investment trust,' shall not be subject to any of the taxes levied in this Article or schedule.~~"

Sec. 4. This act is effective for taxable years beginning on or after January 1, 1993.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 1111 **CHAPTER 495**

AN ACT TO ALLOW EACH OF THE MEMBERS OF THE FARMERS MUTUAL FIRE INSURANCE ASSOCIATION OF NORTH CAROLINA TO BE INDEPENDENTLY CHARTERED.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-8-60. Independent charters for members of the Farmers Mutual Fire Insurance Association of North Carolina.*

(a) Each branch of the Farmers Mutual Fire Insurance Association of North Carolina ('Association'), created by Chapter 343 of the 1893 Private Laws of North Carolina, as amended, shall adopt articles of incorporation by a majority vote of its board of directors.

(b) The articles of incorporation shall provide for the name of the corporation, to be approved by the Commissioner; the kinds of insurance it proposes to transact and on what business plan or principle; and the place of its location in the State. The certificate of incorporation must be subscribed and sworn to by a majority of the board of directors before an officer authorized to take acknowledgement of deeds, who shall certify the certificate to the Commissioner. The Commissioner shall review the certificate and articles of incorporation and file them with the Secretary of State in accordance with G.S. 58-7-35 upon payment of the required fees.

(c) The independently chartered former branches of the Association shall transact the same kinds of insurance and operate under the same business plan as they did as members of the Association. The assets of each independently chartered former branch shall remain the assets of the corporation to which the branch is converted pursuant to this section.

(d) The independently chartered former branches of the Association may change their methods of operation upon compliance with G.S. 58-8-5 and applicable provisions of this Chapter.

(e) The corporations created under this section are subject to applicable provisions of this Chapter.

(f) The corporations created under this section shall enjoy the same rights, privileges, and exemptions as enjoyed by the former Association.

(g) No officer nor member of the board of directors of an independently chartered former branch shall incur any liability for actions taken in good faith pursuant to this section.

Sec. 2. Chapter 343 of the 1893 Private Laws of North Carolina, Chapter 15 of the 1895 Private Laws of North Carolina, Chapter 123 of the 1897 Private Laws of North Carolina, Chapter 18 of the 1903 Private Laws of North Carolina, Chapter 212 of the 1909 Private Laws of North Carolina, Chapter 445 of the 1911 Private Laws of North Carolina, Chapter 187 of the 1921 Private Laws of North Carolina, Chapter 285 of the 1945 Session Laws of North Carolina, and Chapter 674 of the 1949 Session Laws of North

Carolina are repealed; and the Farmers Mutual Fire Insurance Association of North Carolina is hereby abolished.

Sec. 3. Nothing in this act affects any policy that was written or issued by any branch of the Farmers Mutual Fire Insurance Association of North Carolina.

Sec. 4. G.S. 105-228.4(a) reads as rewritten:

"(a) Each insurance company shall, as a condition precedent for doing business in this State, on or before the first day of March of each year apply for and obtain from the Commissioner of Insurance a certificate of registration, or license, effective the first day of July, and shall pay for such certificate the following annual fees except as hereinafter provided in subsections (b) and (c):

For each domestic farmer's mutual assessment fire insurance company ~~or association, and branch thereof~~	$ 25.00
For each fraternal order	100.00
For each of all other insurance companies, except mutual burial associations taxed under G.S. 105-121.1	500.00

The fees levied above shall be in addition to those specified in G.S. 58-6-5."

Sec. 5. This act becomes effective January 1, 1994.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 1112 **CHAPTER 496**

AN ACT TO AMEND THE NORTH CAROLINA CLEAN WATER REVOLVING LOAN AND GRANT PROGRAM TO ALLOW MUNICIPALITIES TO PLEDGE USER FEES OR ANY AVAILABLE SOURCES OF REVENUES FOR THE PAYMENT OF REVOLVING FUNDS AND TO CLARIFY THE AUTHORITY OF THE ENVIRONMENTAL MANAGEMENT COMMISSION WITH RESPECT TO CERTIFICATION OF LABORATORIES THAT MONITOR WATER AND AIR QUALITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159G-9 reads as rewritten:

"§ *159G-9. Eligibility.*

No application shall be eligible for a revolving loan or grant under this Chapter unless it shall demonstrate to the satisfaction of the receiving agency that:

(1) The applicant is a local government unit.

(2) The applicant has the financial capacity to pay the principal of and the interest on its proposed obligations and loans.

(3) The applicant has substantially complied or will substantially comply with all applicable laws, rules, regulations and ordinances, federal, State and local.

(4) The applicant has agreed by official resolution to adopt and place into effect on or before completion of the project a schedule of ~~fees and charges~~ fees, charges, and other available funds, including but not limited to the funds described in G.S. 159G-13(b), ~~which will provide adequate funds~~ that will adequately provide for proper operation, ~~maintenance~~ maintenance, and administration of the ~~project,~~ project and for repayment of all principal of and interest on loans."

Sec. 2. G.S. 159G-17 reads as rewritten:

"§ *159G-17. Annual reports to Joint Legislative Commission on Governmental Operations.*

(a) The Department of Environment, Health, and Natural Resources, the Division of Environmental Health, and the Environmental Management Commission shall prepare and file on or before July 31 of each year with the Joint Legislative Commission on Governmental Operations a consolidated report for the preceding fiscal year concerning the allocation of revolving loans and grants authorized by this Chapter.

(b) The portion of the report prepared by the Department of Environment, Health, and Natural Resources shall set forth for the preceding fiscal year itemized and total allocations from the Wastewater Accounts of revolving loans and grants authorized by the Environmental Management Commission; and itemized and total allocations from the Water Supply Accounts of revolving loans and grants authorized by the Division of Environmental Health. The Department of Environment, Health, and Natural Resources shall also prepare a summary report of all allocations made from the Clean Water Revolving Loan and Grant Fund for each of the previous five fiscal ~~year;~~ years; the total funds received and allocations made; and unallocated funds on hand in each account as of the end of the preceding fiscal year.

(c) Environmental Management Commission and Division of Environmental Health. -- The portions of the report prepared by the Environmental Management Commission and the Division of Environmental Health shall include:

(1) Identification of each revolving loan and grant made by the receiving agency during the preceding fiscal year; the total amount of the revolving loan and grant commitments; the

sums actually paid during the preceding fiscal year to each revolving loan and grant made and to each revolving loan and grant previously committed but unpaid; and the total revolving loan and grant funds paid during the preceding fiscal year.

(2) Repealed by Session Laws 1991, c. 186, s. 9.

(3) ~~Summarization~~ A summary for ~~all~~ the preceding five years of the total number of revolving loans and grants made; the total funds committed to such revolving loans and grants; and the total sum actually paid to such revolving loans and grants.

(4) Assessment and evaluation of the effects that approved projects have had upon water pollution control and water supplies within the purposes of this Chapter and with relation to the total water pollution control and water supply problem.

(d) The report shall be signed by each of the chief executive officers of the State agencies preparing the report."

Sec. 3. G.S. 159G-18 reads as rewritten:

"*§ 159G-18. Local government borrowing authority.*

(a) Local government units may execute debt instruments payable to the State in order to obtain revolving loans provided for in this Chapter. Local government units shall pledge as security for such obligations the user fee revenues derived from operation of the benefited facilities or systems only, or other sources of revenue, or their faith and credit, or ~~both,~~ any combination thereof. The faith and credit of such local government units shall not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use under this Chapter. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments to the State without any public bidding therefor.

(b) The Local Government Commission shall review and approve proposed loans to applicants under this Chapter under the provisions of Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as those provisions are applicable. Revolving loans under this Chapter shall be outstanding debt for the purpose of Article 10, Chapter 159 of the General Statutes."

Sec. 4. G.S. 143-215.3(a)(10) reads as rewritten:

"(10) To require a laboratory facility ~~to be certified by the Department before performing~~ that performs any tests, analyses,

measurements, or monitoring required under this Article or Article 21B of this Chapter ~~and to establish fees therefor.~~ to be certified annually by the Department, to establish standards that a laboratory facility and its employees must meet and maintain in order for the laboratory facility to be certified, and to charge a laboratory facility a fee for certification. Fees collected under this subdivision shall be credited to the Water and Air Account and used to administer this subdivision."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 1157 **CHAPTER 497**

AN ACT TO AMEND THE CONSTITUTION TO PERMIT CITIES AND COUNTIES TO ISSUE BONDS TO FINANCE THE PUBLIC PORTION OF ECONOMIC DEVELOPMENT PROJECTS AND TO AUTHORIZE COUNTIES AND CITIES TO ACCEPT AS CONSIDERATION FOR A CONVEYANCE OR LEASE OF PROPERTY TO A PRIVATE PARTY THE AMOUNT OF INCREASED TAX REVENUE EXPECTED TO BE GENERATED BY THE IMPROVEMENTS TO BE CONSTRUCTED ON THE PROPERTY.

Whereas, the State of North Carolina and local governments in North Carolina are and should be actively engaged in economic development efforts to attract and stimulate private sector job creation and capital investors in their areas; and

Whereas, over 40 other states and local governments in other states are authorized to utilize a wide variety of incentives, including, but not limited to, economic development financing, to attract private sector economic development; and

Whereas, other states and local governments in other states have been successful in attracting private sector job creation and capital investment to their areas through incentive packages which have included the provision of infrastructure improvements financed through the issuance of economic development bonds; and

Whereas, economically distressed areas, particularly in rural areas of North Carolina, could utilize economic development bonds to attract new industry to their areas; and

Whereas, economic development financing bonds could enable North Carolina to be more nationally or internationally competitive in attracting private sector job creation and capital investments,

particularly in attracting major economic development efforts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article V of the Constitution of North Carolina is amended by adding a new section to read:

"*Sec. 14. Economic development financing bonds.*

Notwithstanding Section 4 of this Article or any other provision of this Constitution, the General Assembly may enact general laws authorizing any county, city, or town to define territorial areas in the county, city, or town, and borrow money, without need of voter approval, to be used to finance public activities associated with private economic development projects within the territorial areas, as provided in this section. The General Assembly shall set forth by statute the method for determining the size of the territorial area and the issuing unit. This method shall be deemed to be conclusive. When a territorial area is defined pursuant to this section, the current assessed value of taxable real and personal property in the area shall be determined. Thereafter, property in the territorial area continues to be subject to taxation to the same extent and in like manner as property not in the territorial area, but the net proceeds of taxes levied on the excess, if any, of the assessed value of taxable real and personal property in the area at the time the taxes are levied over the assessed value of taxable real and personal property in the area at the time the area was defined may be set aside. The bonds shall be secured by these set-aside proceeds. The General Assembly may authorize a county, city, or town issuing these bonds to add, as additional security to the bonds, revenues available to the issuing unit from sources other than the issuing unit's exercise of its taxing power. The county, city, or town may not pledge any property tax revenues other than the set-aside proceeds authorized in this section, or in any other manner pledge its full faith and credit unless a vote of the people is held as required by and in compliance with the requirements of Section 4 of this Article."

Sec. 2. Article 6 of Chapter 159 of the General Statutes is reenacted and is rewritten to read:

"ARTICLE 6.

"Economic Development Financing Act.

"§ *159-101. Short title.*

This Article may be cited as the 'North Carolina Economic Development Financing Act.'

"§ *159-102. Unit of local government defined.*

For the purposes of this Article, the term 'unit of local government' means a county or city.

"*§ 159-103. Authorization of economic development financing bonds; purposes.*

(a) Each unit of local government may issue economic development financing bonds pursuant to this Article and use the proceeds for one or more of the purposes for which the unit may issue general obligation bonds pursuant to the following subdivisions of G.S. 159-48: (b)(12), (16), (17), (19), (21), (23), or (24) or (d)(3), (4), (5), or (6). For the purpose of this Article, the term 'capital costs' as defined in G.S. 159-48(h) also includes (i) interest on the bonds being issued or on notes issued in anticipation of the bonds during construction and for a period not exceeding four years after the estimated date of completion of construction and (ii) the establishment of debt service reserves. The proceeds of the bonds may be used either in a development financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use directly benefits private development forecast by the development financing plan for the district, outside the development financing district. The proceeds may be used only in or to benefit private development in that development financing district the revenue increment of which is pledged as security for the bonds. This subsection does not prohibit the use of proceeds to defray the cost of providing water and sewer utilities to a private development in an economic development financing district.

(b) Subject to agreement with the holders of its economic development financing bonds and the limitation on duration of development financing districts set out in this Article, each unit of local government may issue additional economic development financing bonds and may issue bonds to refund any outstanding economic development financing bonds at any time before the final maturity of the bonds to be refunded. General obligation bonds issued to refund outstanding economic development financing bonds shall be issued under the Local Government Bond Act, Article 4 of this Chapter. Revenue bonds issued to refund outstanding economic development financing bonds shall be issued under the State and Local Government Revenue Bond Act, Article 5 of this Chapter.

Economic development financing bonds may be issued partly for the purpose of refunding outstanding economic development financing bonds and partly for any other purpose under this Article. Economic development financing bonds issued to refund outstanding economic development financing bonds shall be issued under this Article and not under Article 4 of this Chapter.

(c) If the private economic development project to be benefited by proposed economic development financing bonds affects tax revenues in more than one unit of local government and more than one affected unit of local government wishes to provide assistance to the private

economic development project by issuing economic development financing bonds, then those units may enter into an interlocal agreement pursuant to Article 20 of Chapter 160A of the General Statutes for the purpose of issuing the bonds. The agreement may include a provision that a unit may pledge all or any part of the taxes received or to be received on the incremental valuation accruing to the development financing district to the repayment of bonds issued by another unit that is a party to the interlocal agreement.

"*§ 159-104. Application to Commission for approval of economic development financing bond issue; preliminary conference; acceptance of application.*

A unit of local government may not issue economic development financing bonds under this Article unless the issue is approved by the Local Government Commission. The governing body of the issuing unit shall file with the secretary of the Commission an application for Commission approval of the issue. At the time of application, the governing body shall publish a public notice of the application in a newspaper of general circulation in the unit of local government. The application shall include statements of facts and documents concerning the proposed bonds, development financing district, and development financing plan and the financial condition of the unit, required by the secretary. The Commission may prescribe the form of the application.

Before accepting the application, the secretary may require the governing body or its representatives to attend a preliminary conference in order to discuss informally the proposed issue, district, and plan and the timing of the steps to be taken in issuing the bonds. The development financing district need not be defined and the development financing plan need not be adopted by the governing body at the time it files the application with the secretary. However, before the Commission may enter its order approving the bonds, the governing body must define the district and adopt the plan.

After an application in proper form and order has been filed, and after a preliminary conference if one is required, the secretary shall notify the unit in writing that the application has been filed and accepted for submission to the Commission. The secretary's statement is conclusive evidence that the unit has complied with this section.

"*§ 159-105. Approval of application by Commission.*

(a) In determining whether a proposed economic development financing bond issue shall be approved, the Commission may inquire into and consider any matters that it may believe to have a bearing on whether the issue should be approved, including:

(1) Whether the projects to be financed from the proceeds of the economic development financing bond issue are necessary to

secure significant new economic development for a development financing district.

(2) Whether the proposed projects are feasible.

(3) The unit of local government's debt management procedures and policies.

(4) Whether the unit is in default in any of its debt service obligations.

(5) Whether the private development forecast in the development financing plan would be likely to occur without the public project or projects to be financed by the economic development financing bonds.

(6) Whether taxes on the incremental valuation accruing to the development financing district, together with any other revenues available under G.S. 159-110, will be sufficient to service the proposed economic development financing bonds.

(7) The ability of the Commission to market the proposed economic development financing bonds at reasonable rates of interest.

(b) The Commission shall approve the application if, upon the information and evidence it receives, it finds that:

(1) The proposed economic development financing bond issue is necessary to secure significant new economic development for a development financing district.

(2) The amount proposed is adequate and not excessive for the proposed purpose of the issue.

(3) The proposed projects are feasible.

(4) The unit of local government's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.

(5) The private development forecast in the development financing plan would not be likely to occur without the public projects to be financed by the economic development financing bonds.

(6) The proposed economic development financing bonds can be marketed at reasonable interest cost to the issuing unit.

(7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, adopted a development financing plan for the development financing district for which the bonds are to be issued.

(8) The taxes on the incremental valuation accruing to the development financing district, together with any other revenues available under G.S. 159-110, will be sufficient to service the proposed economic development financing bonds.

"§ *159-106. Order approving or denying the application.*

(a) After considering an application, the Commission shall enter its order either approving or denying the application. An order approving an issue is not an approval of the legality of the bonds in any respect.

(b) Unless the bonds are to be issued for a development financing district for which an economic development financing bond issue has already been approved, the day upon which the Commission enters its order approving an application for economic development financing bonds is also the effective date of the development financing district for which the bonds are issued.

(c) If the Commission enters an order denying the application, the proceedings under this Article are at an end.

"§ *159-107. Determination of incremental valuation; use of taxes levied on incremental valuation; duration of the district.*

(a) Base Valuation in the Development Financing District. -- After the Local Government Commission has entered its order approving a unit of local government's application for economic development financing bonds, the unit shall immediately notify the tax assessor of the county in which the development financing district is located of the existence of the development financing district. Upon receiving this notice, the tax assessor shall determine the base valuation of the district, which is the assessed value of taxable property located in the district on the January 1 immediately preceding the effective date of the district. If the unit or an agency of the unit acquired property within the district within one year before the effective date of the district, the tax assessor shall presume, subject to rebuttal, that the property was acquired in contemplation of the district and shall include the value of the property so acquired in determining the base valuation of the district. The unit may rebut this presumption by showing that the property was acquired primarily for a purpose other than to reduce the tax incremental base. After determining the base valuation of the development financing district, the tax assessor shall certify the valuation to: (i) the issuing unit; (ii) the county in which the district is located if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located.

(b) Adjustments to the Base Valuation. -- During the lifetime of the development financing district, the base valuation shall be adjusted as follows:

(1) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to remove property from the development financing district, on the succeeding January 1, that property shall be removed from the district and the base valuation reduced accordingly.

(2) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to expand the district, the new property shall be added to the district immediately. The base valuation of the district shall be increased by the assessed value of the taxable property situated in the added territory on the January 1 immediately preceding the effective date of the district.

(3) If, at the time of revaluation pursuant to G.S. 105-286, of property in the county in which the district is located, it appears that, based on the schedule of values, standards, and rules approved by the board of county commissioners pursuant to G.S. 105-317, the property values of the district as they existed on the January 1 immediately preceding the effective date of the district would be increased because of the revaluation, then the base valuation shall be increased accordingly.

Each time the base valuation is adjusted, the tax assessor shall immediately certify the new base valuation to: (i) the issuing unit; (ii) the county if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located.

(c) Revenue Increment Fund. -- When a unit of local government has established a development financing district, and the economic development financing bonds for that district have been approved by the Commission, the unit shall establish a separate fund to account for the proceeds paid to the unit from taxes levied on the incremental valuation of the district. The unit shall also place in this fund any moneys received pursuant to an agreement entered into under G.S. 159-108.

(d) Levy of Property Taxes Within the District. -- Each year the development financing district is in existence, the tax assessor shall determine the current assessed value of taxable property located in the district. The assessor shall also compute the difference between this current value and the base valuation of the district. If the current value exceeds the base value, the difference is the incremental valuation of the district. In each year the district is in existence, the county, and if the district is within a city or a special district as defined by G.S. 159-7, the city or the special district, shall levy taxes against property in the district in the same manner as taxes are levied against other property in the county, city, or special district. The proceeds from ad valorem taxes levied on property in the development financing district shall be distributed as follows:

(1) In any year in which there is no incremental valuation of the district, all the proceeds of the taxes shall be retained by the

county, city, or special district, as if there were no development financing district in existence.

(2) In any year in which there is an incremental valuation of the district, the amount of tax due from each taxpayer on property in the district, except taxes levied to service and repay debt secured by a pledge of the faith and credit of the unit, nonschool taxes levied pursuant to a vote of the people, taxes levied for a municipal or county service district, and city taxes levied in a development financing district established by a county and for which there is no increment agreement between the city and county, shall be multiplied by a fraction, the numerator of which is the base valuation for the district and the denominator of which is the current valuation for the district. The amount shown as the product of this multiplication shall, when paid by the taxpayer, be retained by the county, city, or special district, as if there were no development financing district in existence. The net proceeds of the remaining amount shall, when paid by the taxpayer, be turned over to the issuing unit's finance officer, who shall place this amount in the special revenue increment fund required by subsection (c) of this section. The net proceeds of each debt service tax, each nonschool voted tax, each service district tax, and each tax levied by a city on property in a district that was established by a county and for which there is no increment agreement between the city and county shall be paid to the government levying the tax. 'Net proceeds' is gross proceeds less refunds, releases, and any collection fee paid by the levying government to the collecting government.

(e) Effect of Annexation on District Established by a County. -- If a city annexes land in a development financing district established by a county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property within the district shall be paid to the city unless the city enters into an agreement with the county pursuant to this subsection. The city and the county may enter into an increment agreement under which the city agrees that city taxes on part or all of the incremental valuation in the district shall be paid into the revenue increment fund for the district. An increment agreement may be entered into when the district is established or at any time after the district is established. The increment agreement may extend for the duration of the district or for a shorter time agreed to by the parties.

(f) Use of Moneys in the Revenue Increment Fund. -- If the development financing district includes property conveyed or leased by the unit of local government to a private party in consideration of

increased tax revenue expected to be generated by improvements constructed on the property pursuant to G.S. 158-7.1, an amount equal to the tax revenue taken into account in arriving at the consideration, less the increased tax revenue realized since the construction of the improvement, shall be transferred from the Revenue Increment Fund to the county, city, or special district as if there were no development financing district in existence. Any money in excess of this amount in the Fund may be used for any of the following purposes, without priority other than priorities imposed by the bond order authorizing the economic development financing bonds:

(1) To finance capital expenditures (including the funding of capital reserves) by the issuing unit in the development financing district pursuant to the development financing plan.

(2) To meet principal and interest requirements on economic development financing bonds and bond anticipation notes issued for the district.

(3) To repay the appropriate fund of the issuing unit for any moneys actually expended on debt service on economic development financing bonds pursuant to a pledge made pursuant to G.S. 159-111(b).

(4) To meet any other requirements imposed by the bond order authorizing the economic development financing bonds.

If in any year there is any money remaining in the revenue increment fund after these purposes have been satisfied, it shall be paid to the general fund of the county and, if applicable, of the city and any special district as defined by G.S. 159-7, in proportion to their rates of ad valorem tax on taxable property located in the development financing district.

(g) Duration of District. -- A development financing district shall terminate at the earlier of (i) the end of the thirtieth year after the effective date of the district or (ii) the date all economic development financing bonds issued for the district have been fully retired or sufficient funds have been set aside, pursuant to the bond order authorizing the bonds, to meet all future principal and interest requirements on the bonds.

"*§ 159-108. Agreements with property owners.*

(a) Authorization. -- A unit of local government that issues economic development financing bonds may enter into agreements with the owners of real property in the development financing district for which the bonds were issued under which the owners agree to a minimum value at which their property will be assessed for taxation. Such an agreement may extend for the life of the development

financing district or for a shorter period agreed to by the parties. The agreement may vary the agreed-upon minimum assessed value from year to year.

(b) Filing and Recording Agreement. -- The unit shall file a copy of any agreement entered into pursuant to this section with the tax assessor for the county in which the development financing district is located. In addition, the unit shall cause the agreement to be recorded in the office of the register of deeds of that county, and the register of deeds shall index the agreement in the grantor's index under the name of the property owner. Once the agreement has been recorded in the office of the register of deeds, as required by this subsection, it is binding, according to its terms and for its duration, on any subsequent owner of the property.

(c) Minimum Assessment of Property. -- An agreement entered into pursuant to this section establishes a minimum assessment of the real property subject to the agreement. If the county tax assessor determines that the real property has a true value less than the minimum established by the agreement, the assessor shall nevertheless assess the property at the minimum set out in the agreement. If the assessor, however, determines that the real property has a true value greater than the minimum established by the agreement, the assessor shall assess the property at the true value.

(d) Effect of Reappraisal. -- If an agreement entered into pursuant to this section continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286, the minimum assessment established in the agreement shall be adjusted as provided in this subsection. After the issuing unit of local government has adopted its budget ordinance and levied taxes for the fiscal year that begins next after the effective date of the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem taxes levied by the unit and applicable to the property subject to the agreement. It shall also certify to the assessor the total rate of ad valorem taxes levied by the unit and applicable to the property in the immediately preceding fiscal year. The assessor shall determine the total amount of ad valorem taxes levied by the unit on the property in the immediately preceding fiscal year, based on the tax rate certified by the issuing unit. The assessor shall then determine a value of the property that would provide the same total amount of ad valorem taxes based on the tax rate certified for the fiscal year beginning next after the effective date of the reappraisal. The value so determined is the new minimum assessment for the property subject to the agreement.

(e) Agreement Effective Regardless of Improvements. -- An agreement entered into pursuant to this section remains in effect according to its terms regardless whether the improvements anticipated

in the development financing plan are completed or whether those improvements continue to exist during the duration of the agreement. However, if any part of the property subject to the agreement is acquired by a public agency, the agreement is automatically modified by removing the acquired property from the agreement and reducing the minimum assessment accordingly.

"§ *159-109. Special covenants.*

An economic development financing bond order or a trust agreement securing economic development financing bonds may contain covenants regarding:

(1) The pledge of all or any part of the taxes received or to be received on the incremental valuation in the development financing district during the life of the bonds.

(2) Rates, fees, rentals, tolls, or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received.

(3) The setting aside of debt service reserves and the regulation and disposition of these reserves.

(4) The custody, collection, securing, investment, and payment of any moneys held for the payment of economic development financing bonds.

(5) Limitations or restrictions on the purposes to which the proceeds of sale of economic development financing bonds may be applied.

(6) Limitations or restrictions on the issuance of additional economic development financing bonds or notes for the same development financing district, the terms upon which additional economic development financing bonds or notes may be issued or secured, or the refunding of outstanding economic development financing bonds or notes.

(7) The acquisition and disposal of property for economic development financing bond projects.

(8) Provision for insurance and for accounting reports, and the inspection and audit of accounting reports.

(9) The continuing operation and maintenance of projects financed with the proceeds of the economic development financing bonds.

"§ *159-110. Security of economic development financing bonds.*

Economic development financing bonds are special obligations of the issuing unit. Moneys in the revenue increment fund required by G.S. 159-107(c) are pledged to the payment of the bonds, in accordance with G.S. 159-107(f). Except as provided in G.S. 159-111, the unit may pledge the following additional sources of funds to the payment of the bonds, and no other sources: the proceeds from

the sale of property in the development financing district; net revenues from any public facilities, other than portions of public utility systems, in the development financing district financed with the proceeds of the economic development financing bonds; and, subject to G.S. 159-47, net revenues from any other public facilities, other than portions of public utility systems, in the development financing district constructed or improved pursuant to the development financing plan.

Except as provided in G.S. 159-111, the principal and interest on economic development financing bonds do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of the unit's property or upon any of its income, receipts, or revenues, except as may be provided pursuant to this section. Except as provided in G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing power of the unit is pledged for the payment of the principal or interest of economic development financing bonds, and no holder of economic development financing bonds has the right to compel the exercise of the taxing power by the unit or the forfeiture of any of its property in connection with any default on the bonds. Unless the unit's taxing power has been pledged pursuant to G.S. 159-111, every economic development financing bond shall contain recitals sufficient to show the limited nature of the security for the bond's payment and that it is not secured by the full faith and credit of the unit.

"*§ 159-111. Additional security for economic development financing bonds.*

(a) In order to provide additional security for bonds issued pursuant to this Article, the issuing unit of local government may pledge its faith and credit for the payment of the principal of and interest on the bonds. Before such a pledge may be given, the unit shall follow the procedures for and meet the requirements for approval of general obligation bonds under Article 4 of this Chapter. The unit shall also follow the procedures and meet the requirements of this Article. If bonds are issued pursuant to this Article and are also secured by a pledge of the issuing unit's faith and credit, the bonds are subject to G.S. 159-112 rather than G.S. 159-65.

(b) In order to provide additional security for bonds issued pursuant to this Article, and in lieu of pledging its faith and credit for that purpose pursuant to subsection (a) of this section, a unit of local government may agree to apply to the payment of the bonds any available sources of revenues of the unit, as long as the agreement to use the sources to make payment does not constitute a pledge of the unit's taxing power or of the unit's revenues derived from local sales taxes. In addition, to the extent the generation of the revenues is within the power of the unit, the unit may enter into covenants to take

action in order to generate the revenues, as long as the covenant does not constitute a pledge of the unit's taxing power.

No agreement or covenant may contain a nonsubstitution clause that restricts the right of the issuing unit of local government to replace or provide a substitute for any project financed pursuant to this subsection.

The obligation of a unit of local government with respect to the sources of payment shall be specifically identified in the proceedings of the governing body authorizing the unit to issue the bonds. The sources of payment so specifically identified and then held or thereafter received by the unit or any fiduciary of the unit shall immediately be subject to the lien of the proceedings without any physical delivery of the sources or further act. The lien shall be valid and binding as against all parties having claims of any kind against a unit without regard to whether the parties have notice of the lien. The proceedings or any other document or action by which the lien on a source of payment is created need not be filed or recorded in any manner other than as provided in this Article.

"§ 159-112. *Limitations on details of bonds.*

In fixing the details of economic development financing bonds, the governing body of the issuing unit of local government is subject to these restrictions and directions:

(1) The maturity date shall not exceed the shorter of (i) the longest of the various maximum periods of usefulness for the projects to be financed with bond proceeds, as prescribed by the Local Government Commission pursuant to G.S. 159-122, or (ii) the end of the thirtieth year after the effective date of the development financing district.

(2) The first payment of principal shall be payable not more than four years after the date of the bonds.

(3) Any bond may be made payable on demand or tender for purchase as provided in G.S. 159-79, and any bond may be made subject to redemption prior to maturity, with or without premium, on such notice, at such times, and with such redemption provisions as may be stated. Interest on the bonds shall cease when the bonds have been validly called for redemption and provision has been made for the payment of the principal of the bonds, any redemption, any premium, and the interest on the bonds accrued to the date of redemption.

(4) The bonds may bear interest at such rates payable semiannually or otherwise, may be in such denominations, and may be payable in such kind of money and in such

place or places within or without this State, as the issuing unit may determine.

"*§ 159-113. Annual report.*

In July of each year, each unit of local government with outstanding economic development financing bonds shall make a report to any other unit, and to any special district as defined in G.S. 159-7, in which the development financing district for which the bonds were issued is located. This report shall set out the base valuation for the development financing district, the current valuation for the district, the amount of remaining economic development financing debt for the district, and the unit's estimate of when the debt will be retired.

"*§ 159-114. Participation by minority businesses.*

The goals set by G.S. 143-128 for participation in projects by minority businesses apply to projects of a unit of local government that are funded with the proceeds of economic development financing bonds issued under this Article. A unit of local government that issues economic development bonds shall monitor compliance with this requirement and shall report to the General Assembly by January 1 of each year on the participation by minority businesses in these projects."

Sec. 3. G.S. 159-48(b) is amended by adding a new subsection to read:

"(26) Undertaking public activities in or for the benefit of a development financing district pursuant to a development financing plan."

Sec. 4. G.S. 159-55(a) reads as rewritten:

"(a) After the bond order has been introduced and before the public hearing thereon, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement showing the following:

(1) The gross debt of the unit, excluding therefrom debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding bonds. The gross debt (after exclusions) is the sum of (i) outstanding debt evidenced by bonds, (ii) bonds authorized by orders introduced but not yet adopted, (iii) unissued bonds authorized by adopted orders, and (iv) outstanding debt not evidenced by bonds. However, for purposes of the sworn statement of debt and the debt limitation, revenue bonds and economic development financing bonds (unless additionally secured by a pledge of the issuing unit's faith and credit) shall not be considered debt and such bonds shall not be included in gross debt nor deducted from gross debt.

(2) The deductions to be made from gross debt in computing net debt. The following deductions are allowed:
   a. Funding and refunding bonds authorized by orders introduced but not yet adopted.
   b. Funding and refunding bonds authorized but not yet issued.
   c. The amount of money held in sinking funds or otherwise for the payment of any part of the principal of gross debt other than debt incurred for water, gas, electric light or power purposes, or sanitary sewer purposes (to the extent that the bonds are deductible under subsection (b) of this section), or two or more of these purposes.
   d. The amount of bonded debt included in gross debt and incurred, or to be incurred, for water, gas, or electric light or power purposes, or any two or more of these purposes.
   e. The amount of bonded debt included in the gross debt and incurred, or to be incurred, for sanitary sewer system purposes to the extent that the debt is made deductible by subsection (b) of this section.
   f. The amount of uncollected special assessments theretofore levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the assessments will be applied, when collected, to the payment of any part of the gross debt.
   g. The amount, as estimated by the governing board of the issuing unit or an officer designated by the board for this purpose, of special assessments to be levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt.

(3) The net debt of the issuing unit, being the difference between the gross debt and deductions.

(4) The assessed value of property subject to taxation by the issuing unit, as revealed by the tax records and certified to the issuing unit by the assessor. In calculating the assessed value, the incremental valuation of any development financing district located in the unit, as determined pursuant to G.S. 159-107, shall not be included.

(5) The percentage that the net debt bears to the assessed value of property subject to taxation by the issuing unit."

Sec. 5. G.S. 159-79(a) reads as rewritten:

"(a) Notwithstanding any provisions of this Chapter to the contrary, including particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S. 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S. 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general obligation bonds to be issued pursuant to this Article or general obligation notes to be issued pursuant to Article 9 of this Chapter or economic development financing bonds or notes to be issued pursuant to Article 6 of this Chapter, may provide that such bonds or notes

(1) May be made payable from time to time on demand or tender for purchase by the owner provided a Credit Facility supports such bonds or notes, unless the Commission specifically determines that a Credit Facility is not required upon a finding and determination by the Commission that the proposed bonds or notes will satisfy the conditions set forth in G.S. 159-52;

(2) May be additionally supported by a Credit Facility;

(3) May be made subject to redemption prior to maturity, with or without premium, on such notice, at such time or times, at such price or prices and with such other redemption provisions as may be stated in the resolution fixing the details of such bonds or notes or with such variations as may be permitted in connection with a Par Formula provided in such resolution;

(4) May bear interest at a rate or rates that may vary as permitted pursuant to a Par Formula and for such period or periods of time, all as may be provided in such resolution; and

(5) May be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds to new purchases prior to their presentment for payment to the provider of the Credit Facility or to the issuing unit."

Sec. 6. G.S. 159-120 reads as rewritten:

"*§ 159-120. Definitions.*

As used in this Article, unless the context clearly requires another meaning, the words 'unit' or 'issuing unit' mean 'unit of local government' as defined in G.S. ~~159-44,~~ 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North Carolina, and the words 'governing body,' when used with respect to the State of North Carolina, mean the Council of State."

Sec. 7. G.S. 159-122(a) reads as rewritten:

"(a) Except as provided in this subsection, the last installment of each bond issue shall mature not later than the date of expiration of

the period of usefulness of the capital project to be financed by the bond issue, computed from the date of the bonds. The last installment of a refunding bond issue issued pursuant to G.S. 159-48(a)(4) or (5) shall mature not later than either (i) the shortest period, but not more than 40 years, in which the debt to be refunded can be finally paid without making it unduly burdensome on the taxpayers of the issuing unit, as determined by the Commission, computed from the date of the bonds, or (ii) the end of the unexpired period of usefulness of the capital project financed by the debt to be refunded. The last installment of bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), (6), or (7) shall mature not later than 10 years after the date of the bonds, as determined by the Commission. The last installment of bonds issued pursuant to G.S. 159-48(c)(5) shall mature not later than eight years after the date of the bonds, as determined by the Commission. The last installment of economic development financing bonds shall mature on the earlier of 30 years after the effective date of the development financing district for which the bonds are issued or the longest of the various maximum periods of usefulness for the projects to be financed with bond proceeds, as prescribed by the Commission pursuant to this section."

Sec. 8. G.S. 159-123(b) reads as rewritten:

"(b) The following classes of bonds may be sold at private sale:

(1) Bonds that a State or federal agency has previously agreed to purchase.

(2) Any bonds for which no legal bid is received within the time allowed for submission of bids.

(3) Revenue bonds, including any refunding bonds issued pursuant to G.S. 159-84, and special obligation bonds issued pursuant to Chapter 159I of the General Statutes.

(4) Refunding bonds issued pursuant to G.S. 159-78.

(5) Refunding bonds issued pursuant to G.S. 159-72 if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.

(6) Economic development financing bonds."

Sec. 9. G.S. 159-125(a) reads as rewritten:

"(a) Except for revenue ~~bonds,~~ bonds and economic development financing bonds, no bid for less than ninety-eight percent (98%) of the face value of the bonds plus one hundred percent (100%) of accrued interest may be entertained.

Different rates of interest may be bid for bonds maturing in different years, but different rates of interest may not be bid for bonds maturing in the same year."

Sec. 10. G.S. 159-129 reads as rewritten:

"*§ 159-129. Obligations of units certified by Commission.*

Each bond or bond anticipation note that is represented by an instrument shall bear on its face or reverse a certificate signed by the secretary of the Commission or an assistant designated by him that the issuance of the bond or note has been approved under the provisions of The Local Government Bond ~~Act of~~ Acts, the Local Government Revenue Bond ~~Act.~~ Act, or the North Carolina Economic Development Financing Act. Such signature may be a manual or facsimile signature as the Commission may determine. Each bond or bond anticipation note that is not represented by an instrument shall be evidenced by a writing relating to such obligation, which writing shall identify such obligation or the issue of which it is part, bear such certificate and be on file with the Commission. The certificate shall be conclusive evidence that the requirements of this Subchapter have been observed, and no bond or note without the Commission's certificate or with respect to which a writing bearing such certificate has not been filed with the Commission shall be valid."

Sec. 11. G.S. 159-132 reads as rewritten:

"*§ 159-132. State Treasurer to deliver bonds and remit proceeds.*

When the bonds are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then pay from the proceeds any notes issued in anticipation of the sale of the bonds, deduct from the proceeds the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The proceeds of funding or refunding bonds may be deposited at the place of payment of the indebtedness to be refunded or funded for use solely in the payment of such indebtedness. The proceeds of revenue bonds shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them. Unless otherwise provided in the trust agreement or resolution securing the bonds, the proceeds of economic development financing bonds shall be remitted in the manner provided by this section for the remission of the proceeds of general obligation bonds."

Sec. 12. G.S. 159-160 reads as rewritten:

"*§ 159-160. Definitions.*

As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government' as defined in G.S. ~~159-44,~~ 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North Carolina."

Sec. 13. G.S. 159-163.1 is reenacted and is rewritten to read:

"*§ 159-163.1. Security of economic development financing bond anticipation notes.*

Notes issued in anticipation of the sale of economic development financing bonds are special obligations of the issuing unit. Except as provided in G.S. 159-107 and G.S. 159-110, neither the credit nor the taxing power of the issuing unit may be pledged for the payment of notes issued in anticipation of the sale of economic development financing bonds; and no holder of an economic development financing bond anticipation note shall have the right to compel the exercise of the taxing power by the issuing unit or the forfeiture of any of its property in connection with any default thereon. Notes issued in anticipation of the sale of economic development financing bonds may be secured by the same pledges, charges, liens, covenants, and agreements made to secure the economic development financing bonds. In addition, the proceeds of each economic development financing bond issue are pledged for the payment of any notes issued in anticipation of the sale thereof, and any such notes shall be retired from the proceeds of the sale as the first priority."

Sec. 14. G.S. 159-165(b) reads as rewritten:

"(b) When the bond anticipation notes are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then deduct from the proceeds the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The net proceeds of revenue bond anticipation ~~notes or~~ notes, special obligation bond anticipation ~~notes~~ notes, or economic development financing bond anticipation notes shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them. If the notes have been issued to renew outstanding notes, the Treasurer, in lieu of collecting the purchase price or proceeds, may provide for the exchange of the newly issued notes for the notes to be renewed."

Sec. 15. G.S. 159-176 reads as rewritten:

"§ *159-176. Commission to aid defaulting units in developing refinancing plans.*

If a unit of local government or municipality ~~(as defined in G.S. 159-44 or 159-81)~~ (as defined in G.S. 159-44, 159-81, or 159-102) fails to pay any installment of principal or interest on its outstanding debt on or before the due date (whether the debt is evidenced by general obligation bonds, revenue bonds, economic development financing bonds, bond anticipation notes, tax anticipation notes, or revenue anticipation notes) and remains in default for 90 days, the Commission may take such action as it deems advisable to investigate the unit's or municipality's fiscal affairs, consult with its governing board, and negotiate with its creditors in order to assist the unit or

municipality in working out a plan for refinancing, adjusting, or compromising the debt. When a plan is developed that the Commission finds to be fair and equitable and reasonably within the ability of the unit or municipality to meet, the Commission shall enter an order finding that it is fair, equitable, and within the ability of the unit or municipality to meet. The Commission shall then advise the governing board to take the necessary steps to implement it. If the governing board declines or refuses to do so within 90 days after receiving the Commission's advice, the Commission may enter an order directing the governing board to implement the plan. When this order is entered, the members of the governing board and all officers and employees of the unit or municipality shall be under an affirmative duty to do all things necessary to implement the plan. The Commission may apply to the appropriate division of the General Court of Justice for a court order to the governing board and other officers and employees of the unit or municipality to enforce the Commission's order."

Sec. 16. G.S. 160A-505(a) reads as rewritten:

"(a) In lieu of creating a redevelopment commission as authorized herein, the governing body of any municipality may, if it deems wise, either designate a housing authority created under the provisions of Chapter 157 of the General Statutes to exercise the powers, duties, and responsibilities of a redevelopment commission as prescribed herein, or undertake to exercise such powers, duties, and responsibilities itself. Any such designation shall be by passage of a resolution adopted in accordance with the procedure and pursuant to the findings specified in G.S. 160A-504(a) and (b). In the event a governing body designates itself to perform the powers, duties, and responsibilities of a redevelopment ~~commission,~~ commission under this subsection, or exercises those powers, duties, and responsibilities pursuant to G.S. 153A-376 or G.S. 160A-456, then where any act or proceeding is required to be done, recommended, or approved both by a redevelopment commission and by the municipal governing body, then the performance, recommendation, or approval thereof once by the municipal governing body shall be sufficient to make such performance, recommendation, or approval valid and legal. In the event a municipal governing body designates itself to exercise the powers, duties, and responsibilities of a redevelopment commission, it may assign the administration of redevelopment policies, programs and plans to any existing or new department of the municipality."

Sec. 17. G.S. 160A-512(6) reads as rewritten:

"(6) Within its area of operation, to purchase, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any

interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear or prepare for redevelopment any such property, and ~~notwithstanding the provisions of G.S. 160-59 but~~ subject to the provisions of G.S. 160A-514, and with the approval of the local governing body sell, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate or otherwise encumber or dispose of any real or personal property or any interest therein, either as an entirety to a single 'redeveloper' or in parts to several redevelopers; provided that the commission finds that the sale or other transfer of any such part will not be prejudicial to the sale of other parts of the redevelopment area, nor in any other way prejudicial to the realization of the redevelopment plan approved by the governing body; to enter into ~~contracts~~ contracts, either before or after the real property that is the subject of the contract is acquired by the Commission (although disposition of the property is still subject to G.S. 160A-514), with 'redevelopers' of property containing covenants, restrictions, and conditions regarding the use of such property for residential, commercial, industrial, recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions and conditions as the commission may deem necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this Article; to make any of the covenants, restrictions or conditions of the foregoing contracts covenants running with the land, and to provide appropriate remedies for any breach of any such covenants or conditions, including the right to terminate such contracts and any interest in the property created pursuant thereto; to borrow money and issue bonds therefor and provide security for bonds; to insure or provide for the insurance of any real or personal property or operations of the commission against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this Article;".

Sec. 18. G.S. 160A-515.1 is reenacted and is rewritten to read:

"*§ 160A-515.1. Economic development financing.*

(a) Authorization. -- A city may finance a redevelopment project and any related public improvements with the proceeds of economic development financing bonds, issued pursuant to Article 6 of Chapter

159 of the General Statutes, together with any other revenues that are available to the city. Before it receives the approval of the Local Government Commission for issuance of economic development financing bonds, the city's governing body must define a development financing district and adopt a development financing plan for the district.

(b) Development Financing District. -- A development financing district shall comprise all or portions of one or more redevelopment areas defined pursuant to this Article. The total land area within development financing districts in a city, including development financing districts created pursuant to G.S. 158-7.3, may not exceed five percent (5%) of the total land area of the city.

(c) Development Financing Plan. -- The development financing plan shall be compatible with the redevelopment plan or plans for the redevelopment area or areas included within the district. The development financing plan shall include:

(1) A description of the boundaries of the development financing district;

(2) A description of the proposed development of the district, both public and private;

(3) The costs of the proposed public activities;

(4) The sources and amounts of funds to pay for the proposed public activities;

(5) The base valuation of the development financing district;

(6) The projected incremental valuation of the development financing district;

(7) The estimated duration of the development financing district;

(8) A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services;

(9) A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement; and

(10) A requirement that the initial users of any new manufacturing facilities that will be located in the district and that are included in the plan will comply with the wage requirements in subsection (d) of this section.

(d) Wage Requirements. -- A development financing plan shall include a requirement that the initial users of a new manufacturing facility to be located in the district and included in the plan must pay

its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than ten percent (10%) above the average weekly manufacturing wage paid in the State. The plan may include information on the wages to be paid by the initial users of a new manufacturing facility to its employees and any provisions necessary to implement the wage requirement. The issuing unit's governing body shall not adopt a plan until the Secretary of Commerce certifies that the Secretary has reviewed the average weekly manufacturing wage required by the plan to be paid to the employees of a new manufacturing facility and has found either (i) that the wages proposed by the initial users of a new manufacturing facility are in compliance with the amount required by this subsection or (ii) that the plan is exempt from the requirement of this subsection. The Secretary of Commerce may exempt a plan from the requirement of this subsection if the Secretary receives a resolution from the issuing unit's governing body requesting an exemption from the wage requirement and a letter from an appropriate State official, selected by the Secretary, finding that unemployment in the county in which the proposed district is to be located is especially severe. Upon the creation of the district, the unit of local government proposing the creation of the district shall take any lawful actions necessary to require compliance with the applicable wage requirement by the initial users of any new manufacturing facility included in the plan; however, failure to take such actions or obtain such compliance shall not affect the validity of any proceedings for the creation of the district, the existence of the district, or the validity of any bonds issued under Article 6 of Chapter 159 of the General Statutes. All findings and determinations made by the Secretary of Commerce under this subsection shall be binding and conclusive. For purposes of this section, the term 'manufacturing facility' means any facility that is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

(e) County Review. -- Before adopting a plan for a development financing district, the city council shall cause notice of the plan to be mailed, by first-class mail, to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the city council, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the city council may proceed to adopt the plan.

(f) Environmental Review. -- Before adopting a plan for development financing districts, the city council shall submit the plan to the Secretary of Environment, Health, and Natural Resources to review to determine if the construction and operation of any new manufacturing facility in the district will have a materially adverse effect on the environment and whether the company that will operate the facility has operated in substantial compliance with federal and State laws, regulations, and rules for the protection of the environment. If the Secretary finds that the new manufacturing facility will not have a materially adverse effect on the environment and that the company that will operate the facility has operated other facilities in compliance with environmental requirements, the Secretary shall approve the plan. In making the determination on environmental impact, the Secretary shall use the same criteria that apply to the determination under G.S. 159C-7 of whether an industrial project will have a materially adverse effect on the environment. The findings of the Secretary are conclusive and binding.

(g) Plan Adoption. -- Before adopting a plan for a development financing district, the city council shall hold a public hearing on the plan. The council shall, no less than 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class mail to all property owners and mailing addresses within the proposed development financing district. The council shall also, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once in a newspaper of general circulation in the city. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the city clerk. At the public hearing, the council shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners or the Secretary of Environment, Health, and Natural Resources has disapproved the plan pursuant to subsection (e) or (f) of this section, the council may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the city's application to issue economic development financing bonds has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(h) Plan Modification. -- Subject to the limitations of this subsection, a city council may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the city council shall follow the procedures and meet the requirements of subsections (d) through (g) of this section. The boundaries of the district may be

enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the city may agree with the holders of any economic development financing bonds to restrict its power to reduce district boundaries.

(i) Plan Implementation. -- In implementing a development financing plan, a city may act directly, through a redevelopment commission, through one or more contracts with private agencies, or by any combination thereof."

Sec. 19. Article 1 of Chapter 158 of the General Statutes is amended by adding a new section to read:

"*§ 158-7.3. Development financing.*

(a) Definitions. -- As used in this section:

(1) 'Economic development project' means a capital project that includes capital expenditures by both private persons and one or more units of local government and that increases net employment opportunities for residents of the development district or within a two-mile radius of the project, whichever is larger, and local government tax base.

If the district in which such a project will occur is outside a city's central business district (as that district is defined by resolution of the city council, which definition is binding and conclusive), then, of the private development forecast for an economic development project by the development financing plan for the district in which the project will occur, a maximum of twenty percent (20%) of the plan's estimated square footage of floor space may be proposed for use in retail sales, hotels, banking, and financial services offered directly to consumers, and other commercial uses other than office space.

(2) 'Publish' means insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county or counties in which the unit is located.

(3) 'Unit' or 'unit of local government' means a county, city, town, or incorporated village.

(b) Authorization. -- A unit of local government may finance public improvements that are part of an economic development project with the proceeds of economic development financing bonds, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the unit. Before it

receives the approval of the Local Government Commission for issuance of economic development financing bonds, the unit's governing body must define a development financing district and adopt a development financing plan for the district.

(c) Development Financing District. -- A development financing district created pursuant to this section must be comprised of property that is either:

(1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

(2) Appropriate for rehabilitation or conservation activities; or

(3) Appropriate for the economic development of the community.

The total land area within development financing districts in a unit, including development financing districts created pursuant to G.S. 160A-515.1, may not exceed five percent (5%) of the total land area of the unit. A county may not include in a district created pursuant to this section any land that, at the time the district is created, is inside a city, town, or incorporated village.

(d) Development Financing Plan. -- The development financing plan shall include:

(1) A description of the boundaries of the development financing district;

(2) A description of the proposed development of the district, both public and private;

(3) The costs of the proposed public activities;

(4) The sources and amounts of funds to pay for the proposed public activities;

(5) The base valuation of the development financing district;

(6) The projected incremental valuation of the development financing district;

(7) The estimated duration of the development financing district;

(8) A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services;

(9) A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement; and

(10) A requirement that the initial users of any new manufacturing facilities that will be located in the district

and that are included in the plan will comply with the wage requirements referred to in subsection (e) of this section.

(e) Wage Requirements. -- A development financing plan shall include a requirement that the initial users of a new manufacturing facility to be located in the district and included in the plan must pay its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than ten percent (10%) above the average weekly manufacturing wage paid in the State. The plan may include information on the wages to be paid by the initial users of a new manufacturing facility to its employees and any provisions necessary to implement the wage requirement. The issuing unit's governing body shall not adopt a plan until the Secretary of Commerce certifies that the Secretary has reviewed the average weekly manufacturing wage required by the plan to be paid to the employees of a new manufacturing facility and has found either (i) that the wages proposed by the initial users of a new manufacturing facility are in compliance with the amount required by this subsection or (ii) that the plan is exempt from the requirement of this subsection. The Secretary of Commerce may exempt a plan from the requirement of this subsection if the Secretary receives a resolution from the issuing unit's governing body requesting an exemption from the wage requirement and a letter from an appropriate State official, selected by the Secretary, finding that unemployment in the county in which the proposed district is to be located is especially severe. Upon the creation of the district, the unit of local government proposing the creation of the district shall take any lawful actions necessary to require compliance with the applicable wage requirement by the initial users of any new manufacturing facility included in the plan; however, failure to take such actions or obtain such compliance shall not affect the validity of any proceedings for the creation of the district, the existence of the district, or the validity of any bonds issued under Article 6 of Chapter 159 of the General Statutes. All findings and determinations made by the Secretary of Commerce under this subsection shall be binding and conclusive. For purposes of this section, the term 'manufacturing facility' means any facility that is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

(f) County Review. -- If the unit creating a development financing district and adopting a development financing plan is a city, town, or incorporated village, before adopting the plan the unit's governing body shall cause notice of the plan to be mailed, by first-class mail, to the board of county commissioners of the county or counties in which

the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the governing body, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the governing body may proceed to adopt the plan.

(g) Environmental Review. -- Before adopting a plan for development financing districts, the issuing unit's governing body shall submit the plan to the Secretary of Environment, Health, and Natural Resources to review to determine if the construction and operation of any new manufacturing facility in the district will have a materially adverse effect on the environment and whether the company that will operate the facility has operated in substantial compliance with federal and State laws, regulations and rules for the protection of the environment. If the Secretary finds that the new manufacturing facility will not have a materially adverse effect on the environment and that the company that will operate the facility has operated other facilities in compliance with environmental requirements, the Secretary shall approve the plan. In making the determination on environmental impact, the Secretary shall use the same criteria that apply to the determination under G.S. 159C-7 of whether an industrial project will have a materially adverse effect on the environment. The findings of the Secretary are conclusive and binding.

(h) Plan Adoption. -- Before adopting a plan for a development financing district, the issuing unit's governing body shall hold a public hearing on the plan. The governing body shall, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once and shall cause notice of the hearing to be mailed, by first-class mail, to all property owners and mailing addresses of the development financing district and to the governing body of any special district, as defined by G.S. 159-7, within which the development financing district is located. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the unit's clerk. At the public hearing, the governing body shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners or the Secretary of Environment, Health, and Natural Resources has disapproved the plan pursuant to subsection (f) or (g) of this section, the governing body may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the unit's application to issue economic development financing bonds has been approved by the

Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(i) Plan Modification. -- Subject to the limitations of this subsection, a governing body may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the governing body shall follow the procedures and meet the requirements of subsections (e) through (h) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the unit may agree with the holders of any economic development financing bonds to restrict its power to reduce district boundaries.

(j) Plan Implementation. -- In implementing a development financing plan, a unit may act directly, through one or more contracts with other public agencies, through one or more contracts with private agencies, or by any combination thereof."

Sec. 20. G.S. 105-284 is amended by adding a new subsection to read:

"(d) Property that is in a development financing district and that is subject to an agreement entered into pursuant to G.S. 159-108 shall be assessed at its true value or at the minimum value set out in the agreement, whichever is greater."

Sec. 21. Chapter 105 of the General Statutes is amended by adding a new section to read:

"*§ 105-277.11. Taxation of property subject to a development financing district agreement.*

Property that is in a development financing district, established pursuant to G.S. 160A-515.1 or G.S. 158-7.3, and that is subject to an agreement entered into pursuant to G.S. 159-108, is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and shall be assessed for taxation at the greater of its true value or the minimum value established in the agreement."

Sec. 22. G.S. 158-7.1(d1) is repealed.

Sec. 23. The following acts are repealed: Chapter 266 of the 1989 Session Laws, Chapter 913 of the 1989 Session Laws (Regular Session 1990), and Chapter 7 of the 1991 Session Laws.

Sec. 24. G.S. 158-7.1 is amended by adding a new subsection to read:

"(d2) In arriving at the amount of consideration that it receives, the Board may take into account prospective tax revenues from

improvements to be constructed on the property, prospective sales tax revenues to be generated in the area, as well as any other prospective tax revenues or income coming to the county or city over the next 10 years as a result of the conveyance or lease provided the following conditions are met:

(1) The governing board of the county or city shall determine that the conveyance of the property will stimulate the local economy, promote business, and result in the creation of a substantial number of jobs in the county or city that pay at or above the median average wage in the county or, for a city, in the county where the city is located. A city that spans more than one county is considered to be located in the county where the greatest population of the city resides. For the purpose of this subdivision, the median average wage in a county is the median average wage for all insured industries in the county as computed by the Employment Security Commission for the most recent period for which data is available.

(2) The governing board of the county or city shall contractually bind the purchaser of the property to construct, within a specified period of time not to exceed five years, improvements on the property that will generate the tax revenue taken into account in arriving at the consideration. Upon failure to construct the improvements specified in the contract, the purchaser shall reconvey the property back to the county or city."

Sec. 25. Liberal Construction. This act, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect these purposes.

Sec. 26. Severability. If any clause or other portion of this act is held invalid, that decision shall not affect the validity of the remaining portions of this act, which are severable.

Sec. 27. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State for their ratification or rejection in a referendum to be held on the first Tuesday after the first Monday of November 1993. At that referendum, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

"[ ] FOR constitutional amendment permitting the General Assembly to enact general laws permitting issuance of bonds without a referendum to finance public projects associated with private industrial and commercial economic development projects, with the bonds to be secured in whole or in part by the additional revenues from taxes

levied on the incremental value of the property in the territorial area.

[ ] AGAINST constitutional amendment permitting the General Assembly to enact general laws permitting issuance of bonds without a referendum to finance public projects associated with private industrial and commercial economic development projects, with the bonds to be secured in whole or in part by the additional revenues from taxes levied on the incremental value of the property in the territorial area."

Those qualified voters favoring the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 28. If a majority of votes cast thereon are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of the Office of the Secretary of State. The amendment set out in Section 1 of this act and the amendments set out in Sections 2 through 21 of this act shall become effective upon this certification.

Sec. 29. This act is effective upon ratification. Sections 22, 23, and 24 of this act do not affect appropriations or expenditures that are made by a county or city after the effective date of this act and were agreed to in writing by the county or city before the effective date of this agreement as part of an economic development project.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 115 **CHAPTER 498**

AN ACT TO MAKE NOTE TAKING BY JURORS A DISCRETIONARY DECISION OF THE PRESIDING JUDGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1228 reads as rewritten:

"§ *15A-1228. Notes by the jury.*

~~Jurors~~ Except where the judge, on the judge's own motion or the motion of any party, directs otherwise, jurors may make notes and take them into the jury room during their deliberations. ~~Upon~~

~~objection of any party, the judge, must instruct the jurors that notes may not be taken.~~"

Sec. 2. This act becomes effective October 1, 1993, and applies to trials begun on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 587 **CHAPTER 499**

AN ACT TO CLARIFY THE RULE-MAKING AUTHORITY OF THE MEDICAL CARE COMMISSION FOR NURSING HOME REGULATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-116 reads as rewritten:

"§ *131E-116. Definitions.*

As used in this Part, unless otherwise specified:

(1) 'Administrator' means an administrator of a facility.

(1a) 'Commission' means the North Carolina Medical Care Commission.

(2) 'Facility' means a nursing home and a home for the aged or disabled licensed pursuant to G.S. 131E-102, and also means a nursing home operated by a hospital which is licensed under Article 5 of G.S. Chapter 131E.

(3) 'Patient' means a person who has been admitted to a facility.

(4) 'Representative payee' means a person certified by the federal government to receive and disburse benefits for a recipient of governmental assistance."

Sec. 2. Part B of Article 6 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"§ *131E-131. Rule-making authority; enforcement.*

The Commission shall adopt rules necessary for the implementation of this Part.

The Department shall enforce the rules adopted by the Commission to implement this Part."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 747 **CHAPTER 500**

AN ACT TO AMEND THE NORTH CAROLINA VETERINARY PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-181 reads as rewritten:

"*§ 90-181. Definitions.*

When used in this Article these words and phrases shall be defined as follows:

(1) 'Accredited school of veterinary medicine' means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and that conforms to the standards required for accreditation by the American Veterinary Medical Association.

(2) 'Animal' means any animal, mammal other than man and includes birds, fish, and reptiles, wild or domestic, living or dead.

(2a) 'Animal dentistry' means the treatment, extraction, cleaning, adjustment, or 'floating' (filing or smoothing) of an animal's teeth, and treatment of an animal's gums.

(3) 'Board' means the North Carolina Veterinary Medical Board.

(3a) 'Cruelty to animals' means to willfully overdrive, overload, wound, injure, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill any animal, or cause or procure any of these acts to be done to an animal; provided, that the words 'torture,' 'torment,' or 'cruelty' include every act, omission, or neglect causing or permitting unjustifiable physical pain, suffering, or death.

(4) ~~'Licensed veterinarian' means a person who is validly and currently licensed to practice veterinary medicine in this State.~~ 'Limited veterinary license' or 'limited license' means a license issued by the Board under authority of this Article that specifically, by its terms, restricts the scope or areas of practice of veterinary medicine by the holder of the limited license; provided, that no limited license shall confer or denote an area of specialty of the holder of this limited veterinary license; and provided further, that unless otherwise provided by Board rule, the licensing requirements shall be identical to those specified for a veterinary license.

(5) 'Person' means any individual, firm, partnership, association, joint venture, cooperative or corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any kind of legal or personal representative, or as the successor in interest, assignee, agent, factor,

servant, employee, director, officer, or any other representative of such person.

(6) 'Practice of veterinary medicine' means:

a. To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique on any animal.

b. To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in ~~paragraph a.~~ sub-subdivision a. of this subdivision.

c. To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in ~~paragraph a.~~ sub-subdivision a. of this subdivision.

(7) 'Veterinarian,' ~~'doctor of veterinary medicine,' 'D.V.M.' or equivalent title~~ means a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine ~~or~~ and who ~~now has a valid North Carolina license to~~ is licensed by the Board to practice veterinary medicine.

(7a) 'Veterinarian-client-patient relationship' means that:

a. The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal and the need for medical treatment, and the client (owner or other caretaker) has agreed to follow the instruction of the veterinarian.

b. There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal, or by medically appropriate and timely visits to the premises where the animal is kept.

c. The practicing veterinarian is readily available or provides for follow-up in case of adverse reactions or failure of the regimen of therapy.

(7b) 'Veterinary license' or 'license' means a license to practice veterinary medicine issued by the Board.

(8) 'Veterinary medicine' includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine.

(9) 'Veterinary student intern' means a person who is enrolled in an accredited veterinary ~~college and who~~ college, has satisfactorily completed ~~his~~ the third year of veterinary college ~~education.~~ education, and is registered with the Board as a veterinary student intern.

(10) 'Veterinary student preceptee' means a person who is pursuing a doctorate degree in an accredited school of veterinary medicine ~~which~~ that has a preceptor or extern ~~program and who~~ program, has completed the academic requirements of ~~such program.~~ that program, and is registered with the Board as a veterinary student preceptee.

(11) 'Veterinary technician' ~~or 'animal technician' shall mean~~ means either of the following persons:

a. ~~a~~ A person who has successfully completed a post-high school course in the care and treatment of animals ~~which~~ that conforms to the standards required for accreditation by the American Veterinary Medical ~~Association.~~ Association and who is registered with the Board as a veterinary technician.

b. A person who holds a degree in veterinary medicine from a college of veterinary medicine recognized by the Board for licensure of veterinarians and who is registered with the Board as a veterinary technician."

Sec. 2. Article 11 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"*§ 90-181.1. Practice facility names and levels of service.*

(a) In order to accurately inform the public of the levels of service offered, a veterinary practice facility shall use in its name one of the descriptive terms defined in subsection (b) of this section. The name of a veterinary practice facility shall, at all times, accurately reflect the level of service being offered to the public. If a veterinary facility or practice offers on-call emergency service, that service must be as that term is defined in subsection (b) of this section.

(b) The following definitions are applicable to this section:

(1) 'Animal health center' or 'animal medical center' means a veterinary practice facility in which consultative, clinical, and hospital services are rendered and in which a large staff of basic and applied veterinary scientists perform significant research and conduct advanced professional educational programs.

(2) 'Emergency facility' means a veterinary medical facility whose primary function is the receiving, treatment, and monitoring of emergency patients during its specified hours of operation. At this veterinary practice facility a veterinarian is in attendance at all hours of operation and sufficient staff is available to provide timely and appropriate emergency care. An emergency facility may be an independent veterinary medical after-hours facility, an independent veterinary medical 24-hour facility, or part of a full-service hospital or large teaching institution.

(3) 'Mobile facility' means a veterinary practice conducted from a vehicle with special medical or surgical facilities or from a vehicle suitable only for making house or farm calls; provided, the veterinary medical practice shall have a permanent base of operation with a published address and telephone facilities for making appointments or responding to emergency situations.

(4) 'Office' means a veterinary practice facility where a limited or consultative practice is conducted and which provides no facilities for the housing of patients.

(5) 'On-call emergency service' means a veterinary medical service at a practice facility, including a mobile facility, where veterinarians and staff are not on the premises during all hours of operation or where veterinarians leave after a patient is treated. A veterinarian shall be available to be reached by telephone for after-hours emergencies.

(6) 'Veterinary clinic' or 'animal clinic' means a veterinary practice facility in which the practice conducted is essentially an out-patient practice.

(7) 'Veterinary hospital' or 'animal hospital' means a veterinary practice facility in which the practice conducted includes the confinement as well as the treatment of patients.

(c) If a veterinary practice facility uses as its name the name of the veterinarian or veterinarians owning or operating the facility, the name of the veterinary practice facility shall also include a descriptive term from those listed in subsection (b) of this section to disclose the level of service being offered.

(d) Those facilities existing and approved by the Board as of December 31, 1993, may continue to use their approved name or designation until there is a partial or total change of ownership of the facility, at which time the name of the veterinary practice facility shall be changed, as necessary, to comply with this section."

Sec. 3. G.S. 90-182(a) reads as rewritten:

"(a) In order to properly regulate the practice of veterinary medicine and surgery, there is established a Board to be known as the North Carolina Veterinary Medical Board which shall consist of seven members.

~~Four~~ Five members shall be appointed by the Governor. ~~Three~~ Four of these members shall have been legal residents of and licensed to practice veterinary medicine in this State for not less than five years preceding their appointment. The other member shall not be licensed or registered under the Article and shall represent the interest of the public at large. Each member appointed by the Governor shall reside in a different congressional district.

The Lieutenant Governor ~~and the Speaker of the House~~ shall ~~each~~ appoint to the Board one member who shall have been a resident of and licensed to practice veterinary medicine in this State for not less than five years preceding his appointment.

In addition to the six members appointed as provided above, the Commissioner of Agriculture shall biennially appoint to the Board the State Veterinarian or ~~licensed~~ another veterinarian from a staff of a North Carolina department or institution. This member shall have been a legal resident of and licensed to practice veterinary medicine in North Carolina for not less than five years preceding his appointment.

Every member shall, within 30 days after notice of appointment, appear before any person authorized to administer the oath of office and take an oath to faithfully discharge the duties of ~~his~~ the office."

Sec. 4. G.S. 90-182(b) reads as rewritten:

"(b) No person who has been appointed to the Board shall continue his membership on the Board if during the term of his appointment he shall:

(1) Transfer his legal residence to another state; or

(2) Own or be employed by any wholesale or jobbing house dealing in supplies, equipment, or instruments used or useful in the practice of veterinary medicine; or

(3) Have his license to practice veterinary medicine ~~rescinded~~ revoked for any of the causes listed in G.S. 90-187.8."

Sec. 5. G.S. 90-183 reads as rewritten:

"*§ 90-183. Meeting of Board.*

The Board shall meet at least ~~once each~~ four times per year at the time and place fixed by the Board. Other meetings may be called by the president of the Board by giving notice as may be required by rule. A majority of the Board shall constitute a quorum. Meetings shall be open and public except that the Board may meet in closed session to prepare, approve, administer, or grade examinations, or to deliberate the qualification of an applicant for license or the disposition of a proceeding to discipline a ~~licensed~~ veterinarian.

At its ~~annual meeting~~ last meeting of the fiscal year the Board shall organize by ~~electing~~ electing, for the following fiscal year, a president, a vice-president, a secretary-treasurer, and such other officers as may be prescribed by rule. Officers of the Board shall serve for terms of one year and until a successor is elected, without limitation on the number of terms an officer may serve. The president shall serve as chairman of Board meetings."

Sec. 6. G.S. 90-184 reads as rewritten:

"*§ 90-184. Compensation of the Board.*

In addition to such reimbursement for travel and other expenses as is normally allowed to State employees, each member of the Board, for each day or substantial portion thereof ~~he~~ that the member is engaged in the work of the Board may receive a per diem allowance, as determined by the Board in accordance with G.S. 93B-5. None of the expenses of the Board or of the members shall be paid by the State."

Sec. 7. G.S. 90-185 reads as rewritten:

"*§ 90-185. General powers of the Board.*

The Board ~~shall have the power to:~~ may:

(1) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in the State.

(2) Issue, renew, deny, suspend, or revoke ~~licenses~~ licenses and limited veterinary licenses, and issue, deny, or revoke temporary permits to practice veterinary medicine in the State or otherwise discipline ~~licensed~~ veterinarians consistent with the provisions of Chapter 150B of the General Statutes and of this Article and the rules ~~and regulations~~ adopted ~~thereunder.~~ under this Article.

(3) Conduct investigations for the purpose of discovering violations of this Article or grounds for disciplining ~~licensed~~ veterinarians.

(4) Employ full-time or part-time personnel -- professional, clerical, or special -- necessary to effectuate the provisions of this ~~Article and to~~ Article, purchase or rent necessary office space, ~~equipment~~ equipment, and ~~supplies.~~ supplies, and purchase liability or other insurance to cover the activities of the Board, its operations, or its employees.

(5) Appoint from its own membership one or more members to act as representatives of the Board at any meeting within or without the State where such representation is deemed desirable.

(6) Adopt, amend, or repeal all rules necessary for its government and all regulations necessary to carry into effect

the provisions of this Article, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

The powers enumerated above are granted for the purpose of enabling the Board effectively to supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective."

Sec. 8. G.S. 90-186 reads as rewritten:

"*§ 90-186. Special powers of the Board.*

In addition to the powers set forth in G.S. 90-185 above, the Board ~~shall have the power:~~ may:

(1) ~~To fix~~ Fix minimum standards for continuing veterinary medical education for veterinarians and technicians, which ~~standards~~ shall be a condition precedent to the renewal of a veterinary ~~license~~ license, limited license, veterinary faculty certificate, zoo veterinary certificate, or veterinary technician registration, respectively, under this Article;

(2) ~~To inspect~~ Inspect any hospitals, clinics, mobile units or other ~~places utilized~~ facilities used by any practicing veterinarian, either by a member of the Board or its authorized representatives, ~~which inspection shall be~~ for the purpose of reporting ~~such~~ the results of the inspection to the Board on a form prescribed by the Board ~~or seeking disciplinary action in cases of violations of practice or reasonable health or sanitary regulations duly established and published by the Board or other duly constituted State authorities having jurisdiction in such matters;~~ and seeking disciplinary action for violations of health, sanitary, and medical waste disposal rules of the Board affecting the practice of veterinary medicine, or violations of rules of any county, state, or federal department or agency having jurisdiction in these areas of health, sanitation, and medical waste disposal that relate to or affect the practice of veterinary medicine;

(3) Upon complaint or information received by the Board, prohibit through summary emergency order of the Board, prior to a hearing, the operation of any veterinary practice facility that the Board determines is endangering, or may endanger, the public health or safety or the welfare and safety of animals, and suspend the license of the veterinarian operating the veterinary practice facility, provided that upon the issuance of any summary emergency order, the Board shall initiate, within 10 days, a notice of hearing under the administrative rules issued pursuant to

this Article and Chapter 150B of the General Statutes for an administrative hearing on the alleged violation;

~~(3)~~ (4) ~~To provide~~ Provide special registration for '~~animal~~ veterinary technicians,' 'veterinary student interns' and 'veterinary student ~~preceptees' as defined in G.S. 90-181, and to adopt regulations~~ preceptees' and adopt rules concerning the training, registration and service limits of such assistants while employed by and acting under the supervision and responsibility of ~~licensed veterinarians and to have~~ veterinarians. The Board has exclusive jurisdiction in determining ~~eligibility,~~ eligibility and qualification requirements ~~and in granting or refusing to grant, or to suspend or revoke registration, provided that any suspension or revocation of a special registration issued under this section shall be conducted under the provisions of Chapter 150B of the General Statutes. The Board shall have power to require a registration fee not to exceed five dollars ($5.00) for original registration and not to exceed five dollars ($5.00) for renewal,~~ for these assistants. Renewals of registrations for veterinary technicians shall be required at least every 24 months, provided that the certificate of registration for the veterinary technician is otherwise eligible for renewal;

(5) Provide, pursuant to administrative rules, requirements for the inactive status of licenses and limited veterinary licenses;

(6) Set and require fees pursuant to administrative rule for the following:

a. Issuance or renewal of a certificate of registration for a professional corporation, in an amount not to exceed one hundred fifty dollars ($150.00).

b. Administering a North Carolina license examination, in an amount not to exceed two hundred fifty dollars ($250.00).

c. Securing and administering national examinations, including the National Board Examination or the Clinical Competency Test, in amounts directly related to the costs to the Board.

d. Inspection of a veterinary practice facility in an amount not to exceed seventy-five dollars ($75.00).

e. Issuance or renewal of a license or a limited license in an amount not to exceed one hundred fifty dollars ($150.00).

f. Issuance or renewal of a veterinary faculty certificate, in an amount not to exceed one hundred fifty dollars ($150.00).

g. Issuance or renewal of a zoo veterinary certificate, in an amount not to exceed one hundred fifty dollars ($150.00).

h. Reinstatement of an expired license, a limited license, a veterinary faculty certificate, a zoo veterinary certificate, a veterinary technician registration, or a professional corporation registration in an amount not to exceed one hundred dollars ($100.00).

i. Issuance or renewal of a veterinary technician registration, in an amount not to exceed fifty dollars ($50.00).

j. Issuance of a veterinary student intern registration, in an amount not to exceed twenty-five dollars ($25.00).

k. Issuance of a veterinary student preceptee registration, in an amount not to exceed twenty-five dollars ($25.00).

l. Late fee for renewal of a license, a limited license, a veterinary technician registration, a veterinary faculty certificate, a zoo veterinary certificate, or a professional corporation registration, in an amount not to exceed fifty dollars ($50.00).

m. Issuance of a temporary permit to practice veterinary medicine in an amount not to exceed one hundred fifty dollars ($150.00).

n. Providing copies, upon request, of Board publications, rosters, or other materials available for distribution from the Board, in an amount determined by the Board that is reasonably related to the costs of providing those copies.

The fees set under this subdivision for the renewal of a license, a limited license, a registration, or a certificate apply to each year of the renewal period.

(7) Pursuant to administrative rule, to assess and recover against persons holding licenses, limited licenses, temporary permits, or any certificates issued by the Board, costs reasonably incurred by the Board in the investigation, prosecution, hearing, or other administrative action of the Board in final decisions or orders where those persons are found to have violated the Veterinary Practice Act or administrative rules of the Board issued pursuant to the Act; provided, that all costs shall be the property of the Board."

Sec. 9. G.S. 90-187 reads as rewritten:

"*§ 90-187. Application for license; qualifications.*

(a) Any person desiring a license to practice veterinary medicine in this State shall make written application to the Board.

(b) The application shall show that the applicant is a graduate of an accredited veterinary school, a person of good moral character, and such other information and proof as the Board may require by rule. The Board may receive applications from senior students at accredited veterinary schools but an application is not complete until the applicant furnishes proof of graduation and such other information required by this Article and Board rules. The application shall be accompanied by a fee in the amount established and published by the Board.

(c) ~~Graduates~~ An application from a graduate of a nonaccredited ~~colleges~~ college of veterinary medicine outside the United States and Canada may not be considered by the Board until the applicant furnishes satisfactory proof of graduation from a college of veterinary medicine and of successful completion of the certification program developed and administered by the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association, which certification program shall include examinations with respect to clinical proficiency and comprehension of and ability to communicate in the English language. ~~shall furnish satisfactory proof of graduation from such a college; of successful completion of a year of acceptable veterinary medical experience in a United States or Canadian college, clinic, or private practice recognized for this purpose by the board; of having successfully passed an examination by the United States National Board of Veterinary Medical Examiners; and of comprehension of and ability to communicate in the English language.~~

(d) If the Board determines that the applicant possesses the proper qualifications, it ~~shall~~ may admit the applicant to the next examination, or if the applicant is eligible for a license without examination under G.S. 90-187.3; the Board ~~shall~~ may ~~forthwith~~ grant ~~him~~ the applicant a license."

Sec. 10. G.S. 90-187.1 reads as rewritten:

"*§ 90-187.1. Examinations.*

The Board shall hold at least one examination during each year and may hold such additional examinations as may appear necessary. The ~~secretary-treasurer~~ executive director shall give public notice of the time and place for each examination at least 90 days in advance of the date set for the examination. A person desiring to take an examination shall make application at least ~~30~~ 60 days before the date of the examination. The Board shall determine the passing score for the successful completion of an examination.

After each examination the ~~secretary-treasurer~~ executive director shall notify each examinee of the result of ~~his examination,~~ the examination. ~~and the~~ The Board shall issue licenses to the persons successfully completing the ~~examination.~~ requirements for licensure required by this Article and by Board rule. ~~The secretary-treasurer shall record the new licenses and issue a certificate of registration to the new licensees.~~"

Sec. 11. G.S. 90-187.3 reads as rewritten:

"*§ 90-187.3. Applicants licensed in other states.*

(a) The Board ~~shall~~ may issue a license without written ~~examination~~ examination, other than the written North Carolina license examination, to applicants already licensed in another state provided the applicant presents evidence satisfactory to the Board that:

(1) The applicant is currently an active, competent practitioner in good standing; and

(2) The applicant has practiced at least three of the five years immediately preceding ~~his~~ filing the application; and

(3) The applicant currently holds ~~a valid~~ an active license in another state; and

(4) There is no disciplinary proceeding or unresolved complaint pending against the applicant at the time a license is to be issued by this State; and

(5) The licensure requirements in the other state are substantially equivalent to those required by this ~~State.~~ State; and

(6) The applicant has achieved a passing score on the written North Carolina license examination.

(b) The Board may ~~at its discretion~~ issue a license without a written ~~examination~~ examination, other than the written North Carolina license examination, to ~~applicants~~ an applicant who ~~meet~~ meets the requirements of G.S. 90-187(c).

(c) The Board may at its discretion orally or practically examine any person qualifying for licensure under this ~~section.~~ section, by administering a nationally recognized clinical competency test as well as the North Carolina license examination.

(d) The Board may issue a limited license to practice veterinary medicine to an applicant who is not otherwise eligible for a license to practice veterinary medicine under this Article, without examination, if the applicant meets the criteria established in subdivisions (1) through (6) of subsection (a) of this section."

Sec. 12. G.S. 90-187.4(a) reads as rewritten:

"(a) The Board ~~in its discretion~~ may ~~issue~~ issue, without ~~examination~~ examination, a temporary permit to practice veterinary medicine in this State:

(1) To a qualified applicant for license pending examination, provided that such temporary permit shall expire the day after the notice of results of the first examination given after the permit is ~~issued; or to an applicant lacking full qualification requirements but who, in the opinion of the Board, is competent to practice under the supervision of a licensed veterinarian,~~ issued.

(2) To a nonresident veterinarian validly licensed in another state, territory, or district of the United States or a foreign country, provided that such temporary permit shall be issued for a period of no more than 60 days.

(3) ~~Such temporary permits~~ Temporary permits, as provided in (1) and (2) ~~above~~ above, may contain ~~such~~ any restrictions as to time, place, or supervision, ~~as~~ that the Board ~~may deem~~ deems appropriate. The State Veterinarian shall be notified as to the issuance of all temporary permits."

Sec. 13. G.S. 90-187.5 reads as rewritten:

"*§ 90-187.5. License renewal.*

All licenses and limited licenses shall expire ~~annually~~ annually or biennially, as determined by the Board, on December 31 ~~of each year~~ but may be renewed by application to the Board and payment of the renewal fee established and published by the Board. The ~~secretary-treasurer~~ executive director shall issue a new certificate of registration to all persons registering under this Article. Failure to apply for renewal within ~~30~~ 60 days after expiration shall result in automatic revocation of the license or limited license and any person who shall practice veterinary medicine after such revocation shall be practicing in violation of this Article. Provided, that any person may renew an expired license or limited license at any time within two years following its expiration upon application and compliance with Board requirements and the payment of ~~the prescribed renewal fee and an additional amount not in excess of ten dollars ($10.00) per year for late renewals, provided~~ all applicable fees in amounts allowed by this Article or administrative rule of the Board; and further provided, that the applicant is otherwise eligible ~~for renewal,~~ under this Article or administrative rules of the Board to have the license renewed."

Sec. 14. G.S. 90-187.6 reads as rewritten:

"*§ 90-187.6. Veterinary ~~assistants.~~ technicians and veterinary employees.*

(a) ~~'Animal~~ 'Veterinary technicians,' 'veterinary student interns,' and 'veterinary student ~~preceptees' as defined in G.S. 90-181,~~ preceptees,' before performing any services otherwise prohibited to persons not licensed or registered under this Article, shall be approved by and ~~annually~~ registered with the ~~Board in accordance with G.S.~~

~~90-186(3) of this Article.~~ Board. The Board shall be responsible for all matters pertaining to the qualifications, registration, discipline, and revocation of registration of ~~such~~ these persons, under this Article and rules ~~duly adopted and published~~ issued by the Board.

(b) The services of a technician, intern, preceptee, or other veterinary employee shall be limited to services under the direction and supervision of a ~~licensed~~ veterinarian. ~~He~~ This employee shall receive no fee or compensation of any kind for ~~his~~ services other than ~~such~~ any salary or compensation ~~as may be~~ paid to ~~him~~ the employee by the ~~veterinarian, hospital or clinic~~ veterinarian or veterinary facility by which ~~he~~ the employee is employed. ~~He~~ The employee may participate in the operation of a branch office, clinic, or allied establishment only to the extent allowable under and as defined ~~[by this Article and by rules of the Board.]~~ by this Article or by rules issued by the Board.

(c) An employee under the supervision of a ~~licensed~~ veterinarian may perform such duties as are required in the physical care of animals and in carrying out medical orders as prescribed by the ~~licensed~~ veterinarian, requiring an understanding of animal science but not requiring the professional services as set forth in G.S. 90-181(6)a. In addition, a ~~registered~~ veterinary technician may assist ~~licensed~~ veterinarians in diagnosis, laboratory analysis, anesthesia, and surgical procedures. Neither the employee nor the veterinary technician may perform any act producing an irreversible change in the animal. An employee, other than a veterinary technician, intern, or preceptee, may, under the direct supervision of a veterinarian, perform duties including collection of specimen; testing for intestinal parasites; collecting blood; testing for heartworms and conducting other laboratory tests; taking radiographs; and cleaning and polishing teeth, provided that the employee has had sufficient on-the-job training by a veterinarian to perform these specified duties in a competent manner. It shall be the responsibility of the veterinarian supervising the employee to ascertain that the employee performs these specified duties assigned to the employee in a competent manner. These specified duties shall be performed under the direct supervision of the veterinarian in charge of administering care to the patient.

(d) ~~Registered~~ Veterinary student interns, in addition to all of the services permitted to ~~registered~~ veterinary technicians, may, under the direct personal supervision of a ~~licensed~~ veterinarian, perform surgery and administer therapeutic or prophylactic drugs.

(e) ~~Registered~~ Veterinary student preceptees, in addition to all of the services permitted to ~~registered~~ veterinary technicians and ~~registered~~ veterinary student interns, may, upon the direction of the

employing veterinarian, make ambulatory calls and hospital and clinic diagnoses, prescriptions and treatments.

(f) Any person registered as ~~an animal or~~ a veterinary technician, veterinary student ~~intern~~ intern, or veterinary student preceptee, who shall practice veterinary medicine except as provided herein, shall be guilty of a misdemeanor, subject to the penalties set forth in this Article and shall also be subject to revocation of registration. Any nonregistered veterinary employee employed under subsection (c) who practices veterinary medicine except as provided under that subsection shall be guilty of a misdemeanor and subject to the penalties prescribed in G.S. 90-187.12.

(g) Any veterinarian directing or permitting a ~~registered~~ veterinary technician, intern, preceptee or other employee to perform a task or procedure not specifically allowed under this Article and the rules of the Board shall be guilty of a misdemeanor and subject to the penalties set forth in this Article or General Statutes, or both."

Sec. 15. G.S. 90-187.8 reads as rewritten:

"§ *90-187.8. Discipline of licensees.*

(a) Upon ~~complaint,~~ complaint or information, and within the Board's discretion, the Board may ~~revoke,~~ revoke or suspend ~~the~~ a license ~~of, or~~ issued under this Article, may otherwise ~~discipline, any licensed veterinarian~~ discipline a person licensed under this Article, or may deny a license required by this Article ~~under~~ in accordance with the provisions of this Article, Board rules, and Chapter 150B of the General ~~Statutes of North Carolina.~~ Statutes. As used in this section, the word 'license' includes a license, a limited license, a veterinary faculty certificate, a zoo veterinary certificate, and a registration of a veterinary technician, a veterinary student intern, and a veterinary student preceptee.

(b) The Board may impose and collect from a licensee a civil monetary penalty of up to five thousand dollars ($5,000) for each violation of this Article or a rule adopted under this Article. The amount of the civil penalty, up to the maximum, shall be determined upon a finding of one or more of the following factors:

(1) The degree and extent of harm to the public health or to the health of the animal under the licensee's care.

(2) The duration and gravity of the violation.

(3) Whether the violation was committed willfully or intentionally or reflects a continuing pattern.

(4) Whether the violation involved elements of fraud or deception either to the client or to the Board, or both.

(5) The prior disciplinary record with the Board of the licensee.

(6) Whether and the extent to which the licensee profited by the violation.

(c) Grounds for disciplinary action shall include but not be limited to the following:

(1) The employment of fraud, misrepresentation, or deception in obtaining a license.

(2) An adjudication of insanity or incompetency.

(3) ~~Chronic inebriety or habitual use of drugs.~~ The impairment of a person holding a license issued by the Board, when the impairment is caused by that person's use of alcohol, drugs, or controlled substances, and the impairment interferes with that person's ability to practice within the scope of the license with reasonable skill and safety and in a manner not harmful to the public or to animals under the person's care.

(4) The use of advertising or solicitation which is false, misleading, or deceptive.

(5) Conviction of a felony or other public offense involving moral turpitude.

(6) Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine.

(7) Having professional association with or knowingly employing any person practicing veterinary medicine unlawfully.

(8) Fraud or dishonesty in the application or reporting of any test for disease in animals.

(9) Failure to keep veterinary premises and equipment in a clean and sanitary ~~condition.~~ condition, violating an administrative rule of the Board concerning the minimum sanitary requirements of veterinary hospitals, veterinary clinics, or other practice facilities, or violating other State or federal statutes, rules, or regulations concerning the disposal of medical waste.

(10) Failure to report, as required by the laws and regulations of the State, or making false report of, any contagious or infectious disease.

(11) Dishonesty or gross negligence in the inspection of foodstuffs or the issuance of health or inspection certificates.

(12) Conviction of ~~cruelty to animals,~~ a criminal offense involving cruelty to animals or the act of cruelty to animals.

(13) Revocation of a license to practice veterinary medicine by another state, territory or district of the United States only

if the grounds for revocation in the other jurisdiction would also result in revocation of the practitioner's license in this State.

(14) Unprofessional conduct as defined in regulations adopted by the Board.

(15) Conviction of a federal or state criminal offense involving the illegal use, prescription, sale, or handling of controlled substances, other drugs, or medicines.

(16) The illegal use, dispensing, prescription, sale, or handling of controlled substances or other drugs and medicines.

(17) Failure to comply with regulations of the United States Food and Drug Administration regarding biologics, controlled substances, drugs, or medicines.

(18) Selling, dispensing, prescribing, or allowing the sale, dispensing, or prescription of biologics, controlled substances, drugs, or medicines without a veterinarian-client-patient relationship with respect to the sale, dispensing, or prescription.

(19) Acts or behavior constituting fraud, dishonesty, or misrepresentation in dealing with the Board or in the veterinarian-client-patient relationship."

Sec. 16. G.S. 90-187.10 reads as rewritten:

"*§ 90-187.10. Necessity for license; certain practices exempted.*

No person shall engage in the practice of veterinary medicine or own all or part interest in a veterinary medical practice in this State or attempt to do so without having first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from said Board a certificate of renewal of license for the calendar year in which such person proposes to practice and until he shall have been first licensed and registered for such practice in the manner provided in this Article and the rules and regulations of the said Board.

Nothing in this Article shall be construed to prohibit:

(1) Any person or his employee from administering to animals, the title to which is vested in himself, except when said title is so vested for the purpose of circumventing the provisions of this Article;

(2) Any person who is a regular student or instructor in a legally chartered college from the performance of those duties and actions assigned as his responsibility in teaching or research;

(3) Any veterinarian not licensed by the Board who is a member of the armed forces of the United States or who is an employee of the United States Department of

Agriculture, the United States Public Health Service or other federal agency, or the State of North Carolina, or political subdivision thereof, from performing official duties while so commissioned or employed;

(4) Any person from such practices as permitted under the provisions of G.S. 90-185, House Bill 659, Chapter 17, Public Laws 1937, or House Bill 358, Chapter 5, Private Laws 1941;

(5) Any person from dehorning ~~animals~~ or castrating male food animals;

(6) Any person from providing for or assisting in the practice of artificial insemination;

(7) Any physician licensed to practice medicine in this State, or his assistant, while engaged in medical research;

(8) Any certified rabies vaccinator appointed, certified and acting with the provisions of G.S. 130A-186;

(9) Any veterinarian licensed to practice in another state from examining livestock or acting as a consultant in North Carolina, provided he ~~does not work in the State for more than 10 days in any calendar year and~~ is directly supervised by a veterinarian licensed by the Board who must, at or prior to the first instance of consulting, notify the Board, in writing, that he is supervising the consulting veterinarian, give the Board the name, address, and licensure status of the consulting veterinarian, and also verify to the Board that the supervising veterinarian assumes responsibility for the professional acts of the consulting veterinarian; and provided further, that the consultation by the veterinarian in North Carolina does not exceed 10 days or parts thereof per year, and further that all infectious or contagious diseases diagnosed are reported to the State Veterinarian within 48 ~~hours,~~ hours; or

(10) Any person employed by the North Carolina Department of Agriculture as a livestock inspector or by the U.S. Department of Agriculture as an animal health technician from performing regular duties assigned to him or her during the course and scope of that person's employment."

Sec. 17. G.S. 90-187.11 reads as rewritten:

"§ *90-187.11.* ~~*Partnership practice; corporate practice.*~~ *Partnership, corporate, or sole proprietorship practice.*

A veterinary medical practice may be conducted as a sole proprietorship, by a partnership, or by a duly registered professional corporation.

Whenever the practice of veterinary medicine is carried on by a partnership, all partners must be ~~either licensed or the holders of temporary permits.~~ licensed.

It shall be unlawful for any corporation to practice or offer to practice veterinary medicine as defined in this Article, except as provided for in Chapter 55B of the General Statutes of North Carolina."

Sec. 18. Chapter 90 of the General Statutes is amended by adding a new section to read:

"*§ 90-187.14. Veterinary faculty certificates and zoo veterinary certificates.*

(a) The Board may, upon application, issue veterinary faculty certificates in lieu of a license that otherwise would be required by this Article.

(b) The Board may, upon application, issue zoo veterinary certificates in lieu of a license that otherwise would be required by this Article, to veterinarians employed by the North Carolina State Zoo.

(c) The Board shall determine by administrative rule the application procedure, fees, criteria for the issuance, continuing education, renewal, suspension or revocation, and the scope of practice under the veterinary faculty certificate or the zoo veterinary certificate. There shall be an annual renewal of each certificate and all persons holding these certificates shall be subject to the jurisdiction of the Board in all respects under this Article."

Sec. 19. This act becomes effective October 1, 1993, provided that Section 3 of this act does not affect the term of office of any member serving on that date.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 976 **CHAPTER 501**

AN ACT TO REORGANIZE AND TRANSFER THE GOVERNOR'S WASTE MANAGEMENT BOARD TO THE OFFICE OF ENVIRONMENTAL EDUCATION, TO MAKE CONFORMING CHANGES, AND TO CREATE THE POLLUTION PREVENTION ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. Part 4A of Article 7 of Chapter 143B of the General Statutes is repealed.

Sec. 2. G.S. 7A-29 reads as rewritten:

"*§ 7A-29. (See Note) Appeals of right from certain administrative agencies.*

(a) From any final order or decision of the North Carolina Utilities Commission not governed by subsection (b) of this section, the Department of Human Resources under G.S. 131E-188(b), the Commissioner of Banks under Articles 17, 18, 18A, and 21 of Chapter 53 of the General Statutes, the Administrator of Savings and Loans under Article 3A of Chapter 54B of the General Statutes, the North Carolina Industrial Commission, the North Carolina State Bar under G.S. 84-28, the Property Tax Commission under G.S. 105-290 and G.S. 105-342, ~~or an appeal from~~ the Commissioner of Insurance under G.S. 58-2-80, ~~or from the Governor's Waste Management Board under G.S. 130A-293 and G.S. 104E-6.2,~~ or the Secretary of Environment, Health, and Natural Resources under G.S. 104E-6.2, appeal as of right lies directly to the Court of Appeals."

Sec. 2.1. G.S. 104E-5 is amended by adding a new subdivision to read:

"(14b) 'Secretary' means the Secretary of the Department of Environment, Health, and Natural Resources."

Sec. 3. G.S. 104E-6.2 reads as rewritten:

"§ *104E-6.2. Local ordinances prohibiting low-level radioactive waste facilities invalid; petition to preempt local ordinance.*

(a) It is the intent of the General Assembly to maintain a uniform system for the management of low-level radioactive waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of low-level radioactive waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ordinances (including but not limited to those imposing taxes, fees, or charges or regulating health, environment, or land use), any local ordinance ~~which~~ that prohibits or has the effect of prohibiting the establishment or operation of a low-level radioactive waste facility ~~which the Governor's Waste Management Board (hereinafter 'the Board')~~ which the Secretary has preempted pursuant to subsections (b) through (f) of this section, shall be invalid to the extent necessary to effectuate the purposes of this Chapter or Chapter 104G of the General Statutes. ~~For the purpose of this section, the Board shall include, in addition to the members enumerated in G.S. 143B-285.12(a), two members appointed by the board of commissioners of the county in which the facility is or is to be located. If the facility is or is to be located in more than one county, or if the facility is or is to be located within the boundaries of a city, the governing body of each city and county in which any portion of the facility is or is to be located shall have one appointment. Failure of a local governing body to make an~~

~~appointment within 30 days after receipt of written notice from the Board to do so shall be deemed a vacancy in an unexpired term and shall be filled by appointment by the Board. The terms of members appointed by local governing bodies shall end upon the final determination of the Board under this section, and such members shall serve as members of the Board only for the purpose of this section.~~ To this end, all provisions of special, local, or private acts or resolutions are repealed which:

(1) Prohibit the transportation, treatment, storage, or disposal of low-level radioactive waste within any county, city, or other political subdivision;

(2) Prohibit the siting of a low-level radioactive waste facility within any county, city, or other political subdivision;

(3) Place any restriction or condition not placed by this Chapter or Chapter 104G of the General Statutes upon the transportation, treatment, storage, or disposal of low-level radioactive waste, or upon the siting of a low-level radioactive waste facility within any county, city, or other political subdivision; or

(4) In any manner are in conflict or inconsistent with the provisions of this Chapter or Chapter 104G of the General Statutes.

No special, local, or private acts or resolutions enacted or taking effect hereafter may be construed to modify, amend, or repeal any portion of this Chapter or Chapter 104G of the General Statutes unless it expressly provides for such by specific references to the appropriate section of this Chapter or Chapter 104G of the General Statutes. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste facility are invalidated to the extent preempted by the Secretary pursuant to this Section.

(b) When a low-level radioactive waste facility would be prevented from construction or operation by a county, municipal, or other local ordinance(s), the operator of the proposed facility or the North Carolina Low-Level Radioactive Waste Management Authority established pursuant to Chapter 104G of the General Statutes (hereinafter 'the Authority') may petition ~~the Board~~ the Secretary to review the matter. After receipt of a petition, the ~~Board~~ Secretary shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

(c) When a petition described in subsection (b) of this section has been filed with the ~~Board, the Board~~ Secretary, the Secretary shall hold a public hearing to consider the petition. Such hearing shall be held in the affected locality within 60 days after receipt of the petition by the ~~Board. The Board~~ Secretary. The Secretary shall give notice of the public hearing by:

(1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and

(2) First class mail to persons who have requested such notice. The ~~Board~~ Secretary shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address which appears on the mailing list maintained by the ~~Board,~~ Secretary, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Any interested person may appear before the ~~Board~~ Secretary at the hearing to offer testimony. In addition to testimony before the ~~Board,~~ Secretary, any interested person may submit written evidence to the ~~Board~~ Secretary for its consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(d) The ~~Board~~ Secretary shall determine whether or to what extent to preempt local ordinance(s) so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The ~~Board~~ Secretary shall preempt a local ordinance only if it makes all five of the following findings:

(1) That there is a local ordinance which would prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste facility;

(2) That the proposed facility is needed in order to establish adequate capability to meet the current or projected low-level radioactive waste management needs of this State or to comply with the terms of any interstate agreement for the management of low-level radioactive waste to which the State is a party and therefore serves the interests of the citizens of the State as a whole;

(3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or

approvals have been denied or withheld only because of the local ordinance(s);

(4) That local citizens and elected officials have had adequate opportunity to participate in the siting process; and

(5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator or the Authority has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with any applicable local ordinance(s).

If the ~~Board~~ Secretary does not make all five findings set out above, the ~~Board~~ Secretary shall not preempt the challenged local ordinance(s). The ~~Board's~~ Secretary's decision shall be in writing and shall identify the evidence submitted to the ~~Board~~ Secretary plus any additional evidence used in arriving at the decision.

(e) The decision of the ~~Board~~ Secretary shall be final unless a party to the action shall, pursuant to Article 4 of Chapter 150B of the General Statutes as modified by G.S. 7A-29 and this section, files a written appeal within 30 days of the date of such decision. The record on appeal shall consist of all materials and information submitted to or considered by the ~~Board, the Board's~~ Secretary, the Secretary's written decision, a complete transcript of the hearing, all written material presented to the ~~Board~~ Secretary regarding the location of the facility, the specific findings required by subsection (d) of this section, and any minority positions on the specific findings required by subsection (d) of this section. The scope of judicial review shall be that the court may affirm the decision of the ~~Board,~~ Secretary, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

(1) In violation of constitutional provisions; ~~or~~

(2) In excess of the statutory authority or jurisdiction of the agency; ~~or~~

(3) Made upon unlawful procedure; ~~or~~

(4) Affected by other error of law; ~~or~~

(5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or

(6) Arbitrary or capricious.

If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for such reversal or modification.

(f) In computing any period of time prescribed or allowed by this procedure, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply."

Sec. 4. G.S. 104E-9(a) reads as rewritten:

"(a) The Department of Environment, Health, and Natural Resources is authorized:

(1) To advise, consult and cooperate with other public agencies and with affected groups and industries;

(2) To encourage, participate in, or conduct studies, investigations, public hearings, training, research, and demonstrations relating to the control of sources of radiation, the measurement of radiation, the effect upon public health and safety of exposure to radiation and related problems;

(3) To require the submission of plans, specifications, and reports for new construction and material alterations on (i) the design and protective shielding of installations for radioactive material and radiation machines and (ii) systems for the disposal of radioactive waste materials, for the determination of any radiation hazard and may render opinions, approve or disapprove such plans and specifications;

(4) To collect and disseminate information relating to the sources of radiation, including but not limited to: (i) maintenance of a record of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations; and (ii) maintenance of a record of registrants and licensees possessing sources of radiation requiring registration or licensure under the provisions of this Chapter, and regulations hereunder, and any administrative or judicial action pertaining thereto; and to develop and implement a responsible data management program for the purpose of collecting and analyzing statistical information necessary to protect the public health and safety. The Department may refuse to make public dissemination of information relating to the source of radiation within this State after the Department first determines that the disclosure of such information will contravene the stated policy and purposes of this Chapter and such disclosure would be against the health, welfare and safety of the public.

(5) To respond to any emergency which involves possible or actual release of radioactive material; and to perform or supervise decontamination and otherwise protect the public

health and safety in any manner deemed necessary. This section does not in any way alter or change the provisions of Chapter 166 of the North Carolina General Statutes concerning response during an emergency by the Department of Military and Veterans Affairs or its successor.

(6) To develop and maintain a statewide environmental radiation program for monitoring the radioactivity levels in air, water, soil, vegetation, animal life, milk, and food as necessary to ensure protection of the public and the environment from radiation hazards.

(7) To implement the provisions of this Chapter and the regulations duly promulgated under the Chapter.

(8) To establish annual fees for activities under this Chapter based on actual administrative costs to be applied to training, enforcement, and inspection pursuant to the provisions of this Chapter and to charge and collect fees from operators and users of low-level radioactive waste facilities pursuant to the provisions of this Chapter.

(9) To enter upon any lands and structures upon lands to make surveys, borings, soundings, and examinations as may be necessary to determine the suitability of a site for a low-level radioactive waste facility or low-level radioactive disposal facility. The Department shall give 30 days' notice of the intended entry authorized by this section in the manner prescribed for service of process by G.S. 1A-1, Rule 4. Entry under this section shall not be deemed a trespass or taking; provided, however, that the Department shall make reimbursement for any damage to such land or structures caused by such activities. This authority shall also apply to the North Carolina Low-Level Radioactive Waste Management Authority.

(10) To encourage research and development and disseminate information on state-of-the-art means of handling and disposing of low-level radioactive waste.

(11) The Department shall promote public education and public involvement in the decision-making process for the siting and permitting of proposed low-level radioactive waste facilities. The Department shall assist localities in which facilities are proposed in collecting and receiving information relating to the suitability of the proposed site. At the request of a local government in which facilities are proposed, the Department shall direct the appropriate

agencies of State government to develop such relevant data as that locality shall reasonably request."

Sec. 5. G.S. 104E-27 is amended by adding a new subsection to read:

"(c) The Department shall periodically review the State's comprehensive low-level radioactive waste management system and make recommendations to the Governor, cognizant State agencies, and the General Assembly on ways to improve waste management; reduce the amount of waste generated; and minimize the amount of low-level radioactive waste which must be disposed of."

Sec. 5.1. Chapter 104F of the General Statutes is amended by adding a new section to read:

"*§ 104F-2.1. Restrictions on importing waste from outside the compact.*

The North Carolina members of the Southeast Interstate Low-Level Radioactive Waste Management Commission appointed under G.S. 104F-2 shall not vote in favor of importing waste into the North Carolina regional facility from any person, state, or similar regional body or group of states, or foreign country, outside the compact under G.S. 104F-1, Article IV(e) without prior approval from the North Carolina General Assembly."

Sec. 6. G.S. 104G-2(2) is repealed.

Sec. 7. G.S. 104G-19(d) reads as rewritten:

"(d) The ~~Board~~ Department shall provide technical assistance grants of up to fifty thousand dollars ($50,000) to each site designation review committee. The maximum amount that the ~~Board~~ Department may grant to all site designation review committees for a particular site is seventy-five thousand dollars ($75,000)."

Sec. 8. G.S. 104G-21 reads as rewritten:

"*§ 104G-21. Negotiation and arbitration.*

(a) Any local government in the county or counties where a low-level radioactive waste facility is proposed to be located pursuant to this Chapter may negotiate with the Authority with respect to any issue relating to the facility except:

(1) The need for the facility;

(2) Any proposal to reduce the duties of the Authority under this Chapter or under any license issued for the facility;

(3) Any proposal to reduce the duties of the Commission or to make less stringent any rule of the Commission; or

(4) Any decision of the Authority regarding site selection, operator selection, or technology pursuant to G.S. 104G-9, 104G-10, and 104G-11.

(b) The Authority shall negotiate in good faith with any local government in the county or counties where a low-level radioactive

waste facility is proposed to be located. A local government may designate itself or any other person to negotiate on its behalf.

(c) Negotiations may be conducted with the assistance of a mediator if mediation is requested by both the Authority and a local government. The function of the mediator is to encourage a voluntary settlement of unresolved negotiable issues. The ~~Board~~ Department shall provide the Authority and the local government with the names and qualifications of persons willing to serve as mediators. If the Authority and a local government cannot agree on the selection of a mediator, the Authority and the local government may request the ~~Board~~ Department to appoint a mediator.

(d) If the Authority and a local government have not reached agreement on all issues by negotiation within six months after selection of the preferred site pursuant to G.S. 104G-9(g), the following issues may be submitted to arbitration pursuant to the provisions of Article 45A of Chapter 1 of the General Statutes (Uniform Arbitration Act):

(1) Compensation to any local government for substantial economic impacts which are a direct result of the siting and operation of a low-level radioactive waste facility and for which adequate compensation is not otherwise provided;

(2) Reimbursement of reasonable costs incurred by the local government relating to negotiation, mediation and arbitration activities under this section;

(3) Screening, fencing, and other matters related to the appearance of a facility;

(4) Operational concerns other than design capacity and regulatory issues;

(5) Traffic flows and patterns which result from the operation of a facility;

(6) Uses of the site where a facility is located after the facility is closed;

(7) The applicability or nonapplicability of any local ordinance;

(8) Emergency response capabilities, including training and resources;

(9) Access to facility records and monitoring data; and

(10) Ongoing health surveys of persons living in the area around the facility.

(e) In addition to those issues set out in subsection (d), ~~upon petition to the Board by a local government in the county or counties where a low-level radioactive waste facility is proposed to be located,~~ any other issue may be submitted for arbitration except:

(1) Those issues excluded from negotiation under subsection (a) of this section;

(2) Any issue relating to the imposition by the General Assembly of a tax, or fee not authorized by this Chapter; and

(3) Any issue requiring an appropriation by the General Assembly.

~~(f) The Board shall serve as the arbitrator or shall appoint the arbitrator of any issue submitted for arbitration under this section.~~"

Sec. 9. G.S. 104G-22(a) reads as rewritten:

"(a) To assist the Authority in the performance of its responsibilities under this Chapter and to advise the General Assembly, there is created the Inter-Agency Committee on Low-Level Radioactive Waste (herein called the 'Committee') consisting of ~~11~~ 10 members. The members shall be composed of: ~~the Chairman of the Board; the Chairman of the Board's Technical Committee on Low-Level Radioactive Waste;~~ the Secretary or the Secretary's designee; the Chief of the North Carolina Radiation Protection Section; the Chairman of the Commission's Low-Level Radioactive Waste Management Committee; the Chairman of the Authority; the Chairman of the Authority's Technical Committee; three representatives of the Department of Environment, Health, and Natural Resources with expertise in geology, groundwater, and air quality; and the two representatives of the Attorney General's office who provide legal services to the Authority and the Commission. ~~The Chairman of the Board~~ The Secretary or the Secretary's designee shall serve as the Chairman of the Committee, and the ~~Board~~ Radiation Protection Division of the Department shall provide professional and clerical support to the Committee."

Sec. 10. G.S. 113-8.01 reads as rewritten:

"*§ 113-8.01. Pollution Prevention Pays Programs.*

There is established within the Department a non-regulatory technical assistance program to be known as the Pollution Prevention Pays Program. The purpose of this program is to encourage voluntary waste and pollution reduction efforts through research and by providing information, technical assistance, and matching grants to businesses and industries interested in establishing or enhancing activities to prevent, reduce, or recycle waste. The Pollution Prevention Pays Program shall coordinate its activities with the appropriate regulatory ~~agencies and with the Governor's Waste Management Board,~~ agencies."

Sec. 11. G.S. 120-70.33 reads as rewritten:

"*§ 120-70.33. Powers and duties.*

The Joint Select Committee shall have the following powers and duties:

(1) To study alternatives available to the State for dealing with low-level radioactive waste and the ramifications of each of those alternatives;

(2) To evaluate actions of the North Carolina Low-Level Radioactive Waste Management Authority, its operator, and other persons with whom the Authority contracts;

(3) To evaluate actions of ~~the Governor's Waste Management Board,~~ the Radiation Protection Commission, ~~and~~ the Division of Radiation Protection of the Department of Environment, Health, and Natural Resources, and of any other board, commission, department, or agency of the State or local government as such actions relate to low-level radioactive waste management;

(4) To receive, review, and evaluate reports and recommendations submitted to the General Assembly by the North Carolina Low-Level Radioactive Waste Management Authority and the Inter-Agency Committee on Low-Level Radioactive Waste;

(5) To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting low-level radioactive waste management;

(6) To review existing and proposed State law and rules affecting low-level radioactive waste management and to determine whether any modification of law or rules is in the public interest;

(7) To make reports and recommendations, including draft legislation, to the General Assembly from time to time as to any matter relating to the powers and duties set out in this section; and

(8) *(For applicability see note)* To undertake such additional studies as it deems appropriate or as may from time to time be requested by the President Pro Tempore of the Senate, the Speaker of the House of Representatives, either house of the General Assembly, the Legislative Research Commission, the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, or the Joint Legislative Utility Review Committee, and to make such reports and recommendations to the General Assembly regarding such studies as it deems appropriate."

Sec. 12. G.S. 120-123(23) is repealed.

Sec. 13. G.S. 130A-293 reads as rewritten:

"*§ 130A-293. Local ordinances prohibiting hazardous waste facilities invalid; petition to preempt local ordinance.*

(a) It is the intent of the General Assembly to maintain a uniform system for the management of hazardous waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of hazardous waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ordinances (including but not limited to those imposing taxes, fees, or charges or regulating health, environment, or land use), any local ordinance ~~which~~ that prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility ~~which the Governor's Waste Management Board (hereinafter "the Board")~~ which the Secretary has preempted pursuant to subsections (b) through (f) of this section, shall be invalid to the extent necessary to effectuate the purposes of this Chapter or Chapter 130B of the General Statutes. ~~For the purpose of this section, the Board shall include, in addition to the members enumerated in G.S. 143B-285.12(a), two members appointed by the board of commissioners of the county in which the facility is or is to be located. If the facility is or is to be located in more than one county, or if the facility is or is to be located within the boundaries of a city, the governing body of each city and county in which any portion of the facility is or is to be located shall have one appointment. Failure of a local governing body to make an appointment within 30 days after receipt of written notice from the Board to do so shall be deemed a vacancy in an unexpired term and shall be filled by appointment by the Board. The terms of the members appointed by local governing bodies shall end upon the final determination of the Board under this section, and such members shall serve as members of the Board only for the purpose of this section.~~ To this end, all provisions of special, local, or private acts or resolutions are repealed which:

(1) Prohibit the transportation, treatment, storage, or disposal of hazardous waste within any county, city, or other political subdivision;

(2) Prohibit the siting of a hazardous waste facility within any county, city, or other political subdivision;

(3) Place any restriction or condition not placed by Article 9 of Chapter 130A or Chapter 130B of the General Statutes upon the transportation, treatment, storage, or disposal of hazardous waste, or upon the siting of a hazardous waste facility within any county, city, or other political subdivision; or

(4) In any manner are in conflict or inconsistent with the provisions of Article 9 of Chapter 130A or Chapter 130B of the General Statutes.

No special, local, or private acts or resolutions enacted or taking effect hereafter may be construed to modify, amend, or repeal any portion of Article 9 of Chapter 130A or Chapter 130B of the General Statutes unless it expressly provides for such by specific references to the appropriate section of this Part. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility are invalidated to the extent preempted by the Secretary pursuant to this Section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal, or other local ordinance(s), the operator of the proposed facility or the North Carolina Hazardous Waste Management Commission established pursuant to Chapter 130B of the General Statutes (hereinafter 'the Commission') may petition the ~~Board~~ Secretary to review the matter. After receipt of a petition, the ~~Board~~ Secretary shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

(c) When a petition described in subsection (b) of this section has been filed with the ~~Board, the Board~~ Secretary, the Secretary shall hold a public hearing to consider the petition. Such hearing shall be held in the affected locality within 60 days after receipt of the petition by the ~~Board. The Board~~ Secretary. The Secretary shall give notice of the public hearing by:

(1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and

(2) First class mail to persons who have requested such notice. The ~~Board~~ Secretary shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address which appears on the mailing list maintained by the Board, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Any interested person may appear before the ~~Board~~ Secretary at the hearing to offer testimony. In addition to testimony before the ~~Board,~~ Secretary, any interested person may submit written evidence to the ~~Board~~ Secretary for its consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(d) The ~~Board~~ Secretary shall determine whether or to what extent to preempt local ordinance(s) so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The ~~Board~~ Secretary shall preempt a local ordinance only if it makes all five of the following findings:

(1) That there is a local ordinance which would prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility;

(2) That the proposed facility is needed in order to establish adequate capability to meet the current or projected hazardous waste management needs of this State or to comply with the terms of any interstate agreement for the management of hazardous waste to which the State is a party and therefore serves the interests of the citizens of the State as a whole;

(3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance(s);

(4) That local citizens and elected officials have had adequate opportunity to participate in the siting process; and

(5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator or the Commission has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with any applicable local ordinance(s).

If the ~~Board~~ Secretary does not make all five findings set out above, the ~~Board~~ Secretary shall not preempt the challenged local ordinance(s). The ~~Board's~~ Secretary's decision shall be in writing and shall identify the evidence submitted to the ~~Board~~ Secretary plus any additional evidence used in arriving at the decision.

(e) The decision of the ~~Board~~ Secretary shall be final unless a party to the action shall, pursuant to Article 4 of Chapter 150B of the General Statutes as modified by G.S. 7A-29 and this section, files a written appeal within 30 days of the date of such decision. The record

on appeal shall consist of all materials and information submitted to or considered by the ~~Board, the Board's~~ Secretary, the Secretary's written decision, a complete transcript of the hearing, all written material presented to the ~~Board~~ Secretary regarding the location of the facility, the specific findings required by subsection (d) of this section, and any minority positions on the specific findings required by subsection (d) of this section. The scope of judicial review shall be that the court may affirm the decision of the ~~Board,~~ Secretary, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

(1) In violation of constitutional provisions; or
(2) In excess of the statutory authority or jurisdiction of the agency; or
(3) Made upon unlawful procedure; or
(4) Affected by other error of law; or
(5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or
(6) Arbitrary or capricious.

If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for such reversal or modification.

(f) In computing any period of time prescribed or allowed by this procedure, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply.

(g) Repealed by Session Laws 1989, c. 168, s. 13."

Sec. 14. G.S. 130A-294 reads as rewritten:

"*§ 130A-294. Solid waste management program.*

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

(1) Develop a comprehensive program for implementation of safe and sanitary practices for management of solid waste;
(2) Advise, consult, cooperate and contract with other State agencies, units of local government, the federal government, industries and individuals in the formulation and carrying out of a solid waste management program;
(3) Develop and adopt rules to establish standards for qualification as a waste 'recycling, reduction or resource recovering facility' or as waste 'recycling, reduction or resource recovering equipment' for the purpose of special

tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and equipment;

(4) Develop a permit system governing the establishment and operation of solid waste management facilities. No permit shall be granted for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission for Health Services, without the Department receiving the prior approval for such permit from the county where it is to be located, except if it is to be located within the corporate limits or extraterritorial jurisdiction under Article 19 of Chapter 160A of the General Statutes, of a city as defined in G.S. 160A-1(2), from the city where it is to be located or whose jurisdiction it is in. No permit shall be granted for a solid waste management facility having discharges which are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans which will be required for the applicant to obtain a permit.

The issuance of permits for sanitary landfills operated by local governments is exempt from the environmental impact statements required by Article 1 of Chapter 113A of the General Statutes, entitled the North Carolina Environmental Policy Act of 1971. All sanitary landfill permits issued to local governments prior to July 1, 1984, are hereby validated notwithstanding any failure to provide environmental impact statements pursuant to the North Carolina Environmental Policy Act of 1971;

(4a) No permit shall be granted for any public or private sanitary landfill to receive solid non-radioactive waste generated outside the boundaries of North Carolina to be deposited, unless such waste has previously been inspected by the solid waste regulatory agency of that nation, state or territory, characterized in detail as to its contents and

certified by that agency to be non-injurious to health and safety. The Commission shall adopt rules to implement this subsection.

(5) Repealed by Session Laws 1983, c. 795, s. 3.

(5a) Designate a geographic area within which the collection, transportation, storage and disposal of all solid waste generated within said area shall be accomplished in accordance with a solid waste management plan. Such designation may be made only after the Department has received a request from the unit or units of local government having jurisdiction within said geographic area that such designation be made and after receipt by the Department of a solid waste management plan which shall include:

a. The existing and projected population for such area;
b. The quantities of solid waste generated and estimated to be generated in such area;
c. The availability of sanitary landfill sites and the environmental impact of continued landfill of solid waste on surface and subsurface waters;
d. The method of solid waste disposal to be utilized and the energy or material which shall be recovered from the waste; and
e. Such other data that the Department may reasonably require.

(5b) Authorize units of local government to require by ordinance, that all solid waste generated within the designated geographic area that is placed in the waste stream for disposal be collected, transported, stored and disposed of at a permitted solid waste management facility or facilities serving such area. The provisions of such ordinance shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal, or prohibit collectors of solid waste from recycling materials or limit access to such materials as an incident to collection of such solid waste; provided such prohibitions do not authorize the construction and operation of a resource recovery facility unless specifically permitted pursuant to an approved solid waste management plan. If a private solid waste landfill shall be substantially affected by such ordinance then the unit of local government adopting the ordinance shall be required to give the operator of the affected landfill at least

two years written notice prior to the effective date of the proposed ordinance.

(5c) Except for the authority to designate a geographic area to be serviced by a solid waste management facility, delegate authority and responsibility to units of local government to perform all or a portion of a solid waste management program within the jurisdictional area of the unit of local government; provided that no authority over or control of the operations or properties of one local government shall be delegated to any other local government.

(5d) Require that an annual report of the implementation of the solid waste management plan within the designated geographic area be filed with the Department.

(6) The Department is authorized to charge and collect fees from operators of hazardous waste disposal facilities. The fees shall be used to establish a fund sufficient for each individual facility to defray the anticipated costs to the State for monitoring and care of the facility after the termination of the period during which the facility operator is required by applicable State and federal statutes, regulations or rules to remain responsible for post-closure monitoring and care. In establishing the fees, consideration shall be given to the size of the facility, the nature of the hazardous waste and the projected life of the facility.

(7) Establish and collect annual fees from generators and transporters of hazardous waste, and from storage, treatment, and disposal facilities regulated under this Article as provided in G.S. 130A-294.1.

(b) The Commission shall adopt and the Department shall enforce rules to implement a comprehensive statewide solid waste management program. The rules shall be consistent with applicable State and federal law; and shall be designed to protect the public health, safety, and welfare; preserve the environment; and provide for the greatest possible conservation of cultural and natural resources. Rules for the establishment, location, operation, maintenance, use, discontinuance, recordation, post-closure care of solid waste management facilities also shall be based upon recognized public health practices and procedures, including applicable epidemiological research and studies; hydrogeological research and studies; sanitary engineering research and studies; and current technological development in equipment and methods. The rules shall not apply to the management of solid waste that is generated by an individual or individual family or household unit on the individual's property and is disposed of on the individual's property.

The Commission may adopt rules for financial responsibility to ensure the availability of sufficient funds for closure and post-closure maintenance and monitoring at solid waste management facilities, and for any corrective action the Department may require during the active life of a facility or during the closure and post-closure periods. The rules may permit demonstration of financial responsibility through the use of a letter of credit, insurance, surety, trust agreement, financial test, or guarantee by corporate parents or third parties who can pass the financial test. Financial responsibility rules shall not apply to solid waste management facilities operated by local government.

(c) The Commission shall adopt and the Department shall enforce rules concerning the management of hazardous waste. These rules shall establish a complete and integrated regulatory scheme in the area of hazardous waste management and shall provide for:

(1) Establishing criteria for hazardous waste, identifying the characteristics of hazardous waste and listing particular hazardous waste;

(1a) Establishing criteria for hazardous constituents, identifying the characteristics of hazardous constituents and listing particular hazardous constituents;

(2) Record-keeping and reporting by generators and transporters of hazardous waste and owners and operators of hazardous waste facilities;

(3) Proper labeling of hazardous waste containers;

(4) Use of appropriate containers for hazardous waste;

(5) A manifest system to assure that all hazardous waste is designated for treatment, storage or disposal at a hazardous waste facility to which a permit has been issued;

(6) Proper transportation of hazardous waste;

(7) Treatment, storage and disposal standards of performance and techniques to be used by hazardous waste facilities;

(8) Location, design, ownership and construction of hazardous waste facilities; provided, however, that no hazardous waste disposal facility or polychlorinated biphenyl disposal facility shall be located within 25 miles of any other hazardous waste disposal facility or polychlorinated biphenyl disposal facility;

(9) Plans to minimize unanticipated damage from treatment, storage or disposal of hazardous waste; and a plan or plans providing for the establishment and/or operation of one or more hazardous waste facilities in the absence of adequate approved hazardous waste facilities established or operated by any person within the State;

(10) Proper maintenance and operation of hazardous waste facilities, including requirements for ownership by any person or the State, financial responsibility (including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures through the use of a letter of credit, insurance, surety, trust agreement, financial test, or financial test and corporate guarantee), training of personnel, continuity of operation and procedures for establishing and maintaining hazardous waste facilities;

(11) Monitoring by owners or operators of hazardous waste facilities;

(12) Inspection or copying of records required to be kept;

(13) Obtaining and analyzing hazardous waste samples and samples of hazardous waste containers and labels from generators and transporters and from owners and operators of hazardous waste facilities;

(14) A permit system governing the establishment and operation of hazardous waste facilities;

(15) Additional requirements as necessary for the effective management of hazardous waste;

(16) The operator of the hazardous waste disposal facility shall maintain adequate insurance to cover ~~forseeable~~ foreseeable claims arising from the operation of the facility. The ~~Board~~ Department shall determine what constitutes an adequate amount of insurance;

(17) The bottom of a hazardous waste disposal facility shall be at least 10 feet above the seasonal high water table and more when necessary to protect the public health and the environment; and

(18) The operator of a hazardous waste disposal facility shall make monthly reports to ~~the Governor's Waste Management Board and to~~ the board of county commissioners of the county in which the facility is located on the kinds and amounts of hazardous wastes in the facility.

(d) The Commission is authorized to adopt and the Department is authorized to enforce rules where appropriate for public participation in the consideration, development, revision, implementation and enforcement of any permit rule, guideline, information or program under this Article.

(e) Rules adopted under this section may incorporate standards and restrictions which exceed and are more comprehensive than comparable federal regulations.

(f) Within 10 days of receiving an application for a permit or for an amendment to an existing permit for a hazardous waste facility, the Department shall notify the clerk of the board of commissioners of the county or counties in which the facility is proposed to be located or is located and, if the facility is proposed to be located or is located within a city, the clerk of the governing board of the city, that the application has been filed, and shall file a copy of the application with the clerk. Prior to the issuance of a permit or an amendment of an existing permit the Secretary or his designee shall conduct a public hearing in the county, or in one of the counties in which the hazardous waste facility is proposed to be located or is located. The Secretary or his designee shall give notice of the hearing, and the public hearing shall be in accordance with applicable federal regulations adopted pursuant to RCRA and with Chapter 150B of the General Statutes. Where the provisions of the federal regulations and Chapter 150B of the General Statutes are inconsistent, the federal regulations shall apply.

(g) The Commission shall develop and adopt standards for permitting of hazardous waste facilities. Such standards shall be developed with, and provide for, public participation; shall be incorporated into rules; shall be consistent with all applicable federal and State law, including statutes, regulations and rules; shall be developed and revised in light of the best available scientific data; and shall be based on consideration of at least the following factors:

(1) Hydrological and geological factors, including flood plains, depth to water table, groundwater travel time, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines, and climate;

(2) Environmental and public health factors, including air quality, quality of surface and groundwater, and proximity to public water supply watersheds;

(3) Natural and cultural resources, including wetlands, gamelands, endangered species habitats, proximity to parks, forests, wilderness areas, nature preserves, and historic sites;

(4) Local land uses;

(5) Transportation factors, including proximity to waste generators, route safety, and method of transportation;

(6) Aesthetic factors, including the visibility, appearance, and noise level of the facility;

(7) Availability and reliability of public utilities; and

(8) Availability of emergency response personnel and equipment.

(h) Rules adopted by the Commission shall be subject to the following requirements:

(1) Repealed by Session Laws 1989, c. 168, s. 20.

(2) Hazardous waste shall be treated prior to disposal in North Carolina. The Commission shall determine the extent of waste treatment required before hazardous waste can be disposed of in a hazardous waste disposal facility.

(3) Any hazardous waste disposal facility hereafter constructed in this State shall meet, at the minimum, the standards of construction imposed by federal regulations adopted under the RCRA at the time the permit is issued.

(4) No hazardous waste disposal facility or polychlorinated biphenyl disposal facility shall be located within 25 miles of any other hazardous waste disposal facility or polychlorinated biphenyl disposal facility.

(5) No hazardous waste facility operated pursuant to Chapter 130B of the General Statutes shall be located within 25 miles of a polychlorinated biphenyl landfill facility.

(6) The following ~~will~~ shall not be disposed of in a hazardous waste disposal facility: ignitables as defined in the RCRA, polyhalogenated biphenyls of 50 ppm or greater concentration, and free liquids whether or not containerized.

(7) Facilities for disposal or long-term storage of hazardous waste shall have at a minimum the following: a leachate collection and removal system above an artificial impervious liner of at least 30 mils in thickness, a minimum of five feet of clay or clay-like liner with a maximum permeability of 1.0×10^{-7} centimeters per second (cm/sec) below said artificial liner, and a leachate detection system immediately below the clay or clay-like liner.

(8) Hazardous waste shall not be stored at a hazardous waste treatment facility for over 90 days prior to treatment or disposal.

(9) The Commission shall consider any hazardous waste treatment process proposed to it, if the process lessens treatment cost or improves treatment over then current methods or standards required by the Commission.

(10) Prevention, reduction, recycling, and detoxification of hazardous wastes should be encouraged and promoted. Hazardous waste disposal facilities and polychlorinated biphenyl disposal facilities shall be detoxified as soon as technology which is economically feasible is available and

sufficient money is available without additional appropriation.

(i) The ~~Department, in consultation with the Governor's Waste Management Board and the Division of Environmental Management of the Department of Environment, Health, and Natural Resources,~~ Department shall develop a comprehensive hazardous waste management plan for the State. This plan shall be completed by ~~1 July~~ July 1, 1990 and shall be revised at two-year intervals thereafter. The Department shall make recommendations to the Governor, cognizant State agencies, and the General Assembly on ways to: improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste which must be disposed of.

(j) The Commission may adopt rules for financial responsibility (including requirements for sufficient availability of funds for facility closure and postclosure monitoring and corrective measures, and for potential liability for sudden and nonsudden accidental occurrences), which may permit the use of insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing, shown to provide protection equivalent to the financial protection that would have been provided by insurance if insurance were the only mechanism used. Any direct or indirect parent corporation or other parent entity of the operator of a commercial hazardous waste treatment facility shall be deemed to be a guarantor of payment by the operator for closure, monitoring, and corrective measures and for liability incurred by the operator arising from the operation of the commercial hazardous waste treatment facility. The Department may provide a copy of any filing to meet the financial responsibility requirements to the State Treasurer, who shall review the filing and provide written comments on the equivalency of protection provided by the filing, including recommended changes.

(k) Each person who generates hazardous waste who is required to pay a fee under G.S. 130A-294.1, and each operator of a hazardous waste treatment facility which treats waste generated on-site who is required to pay a fee under G.S. 130A-294.1, shall submit to the Department at the time such fees are due, a written description of any program to minimize or reduce the volume and quantity or toxicity of such waste.

(l) Disposal of solid waste in or upon water in a manner that results in solid waste entering waters or lands of the State is unlawful. Nothing herein shall be interpreted to affect disposal of solid waste in a permitted landfill.

(m) *(Expires July 1, 1993)* Demolition debris consisting of used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete, or similar nonhazardous material may be used as fill and need not be disposed of in a permitted landfill or solid waste disposal facility. Such demolition debris may not be placed in the waters of the State or at or below the seasonal high water table.

(n) The Department shall encourage research and development and disseminate information on state-of-the-art means of handling and disposing of hazardous waste. The Department may establish a waste information exchange for the State.

(o) The Department shall promote public education and public involvement in the decision-making process for the siting and permitting of proposed hazardous waste facilities. The Department shall assist localities in which facilities are proposed in collecting and receiving information relating to the suitability of the proposed site. At the request of a local government in which facilities are proposed, the Department shall direct the appropriate agencies of State government to develop such relevant data as that locality shall reasonably request.

(p) The Department shall each year recommend to the Governor a recipient for a 'Governor's Award of Excellence' which the Governor shall award for outstanding achievement by an industry or company in the area of waste management.

(q) The Secretary shall, at the request of the Governor and under the Governor's direction, assist with the negotiation of interstate agreements for the management of hazardous waste.

(r) The Commission for Health Services shall, in accordance with the procedures set forth in G.S. 160A-211.1 and G.S. 153A-152.1, review upon appeal specific privilege license tax rates which localities may apply to waste management facilities in their jurisdiction.

(s) The Department is authorized to enter upon any lands and structures upon lands to make surveys, borings, soundings, and examinations as may be necessary to determine the suitability of a site for a hazardous waste facility or hazardous waste disposal facility. The Department shall give 30 days' notice of the intended entry authorized by this section in the manner prescribed for service of process by G.S. 1A-1, Rule 4. Entry under this section shall not be deemed a trespass or taking; provided, however, that the Department shall make reimbursement for any damage to such land or structures caused by such activities. This authority shall also apply to the North Carolina Hazardous Waste Management Commission."

Sec. 15. G.S. 130A-296 is repealed.

Sec. 16. G.S. 130B-2(b) reads as rewritten:

"(b) Unless a different meaning is required by the context, the following definitions shall apply throughout this Chapter:

(1) 'Authorized hazardous waste facility' means a hazardous waste facility authorized by the Governor as provided in G.S. 130B-5(a) and G.S. 130B-5(b)(1).

~~(2) 'Board' means the Governor's Waste Management Board established pursuant to Part 4A of Article 7 of Chapter 143B of the General Statutes.~~

(3) 'Commission' means the North Carolina Hazardous Waste Management Commission established pursuant to this Chapter or any successor thereto.

(4) 'Department' means the Department of Environment, Health, and Natural Resources."

Sec. 17. G.S. 130B-4 reads as rewritten:

"*§ 130B-4. Purpose.*

It is the purpose of this Chapter to provide for the siting, construction, and operation of hazardous waste facilities to the end that hazardous waste may be treated or disposed of in the most cost-effective manner, while protecting public health and safety and the environment. It is the purpose of this Chapter to promote a regional approach to hazardous waste management. It is the purpose of this Chapter to provide a mechanism to assess the need for hazardous waste treatment and disposal in this State and in the region, to determine the scope and capacity of hazardous waste facilities needed in this State in order that North Carolina is in a position to assume its fair share in the management of hazardous waste so that the benefits and burdens of hazardous waste management are equitably shared by all states, and to cause to come into existence such facilities as are needed. It is the purpose of this Chapter to promote interstate agreements for the management of hazardous waste which will assure access to hazardous waste facilities on a regional basis. It is the purpose of this Chapter to encourage the development of hazardous waste facilities which are needed in this State through the efforts of private enterprise. It is the purpose of this Chapter to create a commission to assist private enterprise with the development of needed hazardous waste facilities through the performance of those tasks which private enterprise is unable to undertake or accomplish. It is the purpose of this Chapter to authorize the Commission, when authorized by the Governor, to site, design, finance, construct, operate, oversee, acquire, hold, sell, lease, or convey needed hazardous waste facilities to the extent that private enterprise fails to provide such facilities.

It is also the purpose of the General Assembly ~~through powers granted to the Governor's Waste Management Board~~ to limit the extent

to which units of local government may regulate the management of hazardous waste by means of local acts, laws, resolutions, ordinances, rules, or regulations, including but not limited to those relating to taxes and fees, local land use including zoning and other restrictions on the use of property, building codes, fire protection, civil defense, preparation for and response to emergencies, and public health.

Furthermore, it is the purpose of this Chapter to establish an effective and comprehensive policy of negotiation and arbitration between the Commission or other applicant for a permit to operate a hazardous waste facility pursuant to this Chapter and a committee representing the affected local government(s) to assure that:

(1) The legitimate concerns of nearby residents and affected municipalities can be expressed in a public forum, negotiated and, if need be, arbitrated with the Commission in a fair manner and reduced to a written document that is legally binding; and

(2) Environmentally sound and economically viable hazardous waste facilities will be established."

Sec. 18. G.S. 130B-5(c) reads as rewritten:

"(c) The Governor is authorized to enter into interstate agreements for the management of hazardous waste. Such agreements shall provide for access to suitable facilities for management of hazardous waste; encourage reductions in the volume or quantity and toxicity of hazardous waste; distribute the costs, benefits, and obligations of hazardous waste management equitably among the party states; and provide for protection of human health and the environment in a manner that is both ecologically and economically sound. In negotiating such agreements, the Governor may request such assistance as he deems appropriate from the Attorney General, the Solid Waste Management Division of the Department, ~~the Governor's Waste Management Board,~~ and the Commission. The Governor shall submit any such agreement to the General Assembly for its approval, and no such agreement shall be effective until approved by the General Assembly."

Sec. 19. G.S. 130B-6(b) reads as rewritten:

"(b) Membership. -- The Commission shall be ~~composed~~ comprised of nine members. Members of the General Assembly, ~~the Board,~~ the Commission for Health Services, and members or employees of any State or federal agency, board, or commission which exercises regulatory authority with respect to any activity of the Commission shall be ineligible for appointment to membership on the Commission."

Sec. 20. G.S. 130B-7(a)(1) reads as rewritten:

"(1) Shall (i) with the assistance of ~~the Board and~~ the Solid Waste Management Division of the Department, periodically review current and projected hazardous waste generation from all sources within the State, the current and projected effect of efforts to minimize and reduce the generation of hazardous waste, the potential for further reductions in the generation of hazardous waste, current and projected availability and adequacy of facilities for the management of hazardous waste within and outside the State, whether and to what extent private enterprise will provide needed hazardous waste facilities, and capacity assurance requirements under CERCLA/SARA, (ii) determine whether additional facilities for the management of hazardous waste may be needed in this State, and (iii) make appropriate recommendations to the Governor and the General Assembly;".

Sec. 21. G.S. 130B-19(d) reads as rewritten:

"(d) Subject to appropriation by the General Assembly, the ~~Board~~ Department may provide technical assistance grants of up to fifty thousand dollars ($50,000) to each site designation review committee. In the event that a proposed site is located in more than one county, or that one or more site designation review committees are appointed pursuant to subsection (h) of this section, the ~~Board~~ Department may provide technical grants to a site designation review committee in each county, provided that the maximum amount the ~~Board~~ Department may grant to all site designation review committees for a particular site is seventy-five thousand dollars ($75,000)."

Sec. 22. G.S. 130B-19(i) reads as rewritten:

"(i) No grant funds shall be used for litigation expenses. Each site designation review committee shall properly account for all funds. Unexpended funds shall revert to the ~~Board,~~ Department, and at the end of the biennium shall revert to the General Fund."

Sec. 23. G.S. 130B-20(c) reads as rewritten:

"(c) An applicant for a permit to operate a hazardous waste facility pursuant to this Chapter shall pay a one-time local application fee of one hundred thousand dollars ($100,000) to the ~~Board. The Board~~ Department. The Department shall distribute not less than sixty-five thousand dollars ($65,000) of the local application fee to the county or counties where the site of the proposed facility is located. If the site lies in more than one county, the local application fee will be distributed to the counties in which the site is located in equal amounts. If the board of commissioners appoints a preferred site local advisory committee the local application fee shall be used to support the work of the committee."

Sec. 24. G.S 130B-20(d) reads as rewritten:

"(d) A preferred site local advisory committee may also be appointed as provided by this section by the board of commissioners of any county whenever the board of commissioners determines that the county may be affected by the siting of a hazardous waste facility in another county. If a preferred site local advisory committee is appointed pursuant to this subsection, the committee may apply to the ~~Board~~ Department for a portion of the local application fee to support the work of the committee. The ~~Board~~ Department may allocate up to twenty-five thousand dollars ($25,000) to each preferred site local advisory committee appointed pursuant to this subsection, provided that the maximum amount that the ~~Board~~ Department may allocate to all preferred site local advisory committees appointed pursuant to this subsection for a particular site is thirty-five thousand dollars ($35,000). The ~~Board~~ Department shall base allocations under this subsection on the likelihood that the proposed hazardous waste facility will have a significant effect in the county, taking distance to the facility and other factors into account. Decisions of the ~~Board~~ Department regarding allocations under this subsection are final. Any portion of the local application fee which is not allocated by the ~~Board~~ Department under this subsection shall be distributed by the ~~Board~~ Department to the county or counties where the site of the proposed facility is located as provided in subsection (c) of this section."

Sec. 25. G.S. 130B-21 reads as rewritten:

"§ *130B-21. Negotiation, mediation, and arbitration.*

(a) Any local government in the county or counties where a hazardous waste facility is proposed to be located pursuant to this Chapter may negotiate with the Commission with respect to any issue relating to the facility except:

(1) The need for the facility;

(2) Any proposal to reduce the duties of the Commission under this Chapter or under any permit or license issued for the facility;

(3) Any proposal to reduce the duties of the Commission for Health Services or the Department, or to make less stringent any rule of the Commission for Health Services;

~~(4) Any proposal to reduce the duties of the Board;~~

(5) Any act or decision of the Governor pursuant to G.S. 130B-5; or

(6) Any decision of the Commission regarding site selection, contractor selection, or technology pursuant to G.S. 130B-11, 130B-13, and 130B-14.

(b) The Commission shall negotiate in good faith with any local government in the county or counties where a hazardous waste facility

is proposed to be located. A local government may designate itself or any other person to negotiate on its behalf.

(c) Negotiations may be conducted with the assistance of a mediator if mediation is requested by both the Commission and a local government. The function of the mediator is to encourage a voluntary settlement of unresolved negotiable issues. The ~~Board~~ Department shall provide the Commission and the local government with the names and qualifications of persons willing to serve as mediators. If the Commission and a local government cannot agree on the selection of a mediator, the Commission and the local government may request the ~~Board~~ Department to appoint a mediator.

(d) If the Commission and a local government have not reached agreement on all issues by negotiation within six months after selection of the preferred site pursuant to G.S. 130B-11(d), the following issues may be submitted to arbitration pursuant to the provisions of Article 45A of Chapter 1 of the General Statutes (Uniform Arbitration Act):

(1) Compensation to any local government for substantial economic impacts which are a direct result of the siting and operation of a hazardous waste facility and for which adequate compensation is not otherwise provided;
(2) Reimbursement of reasonable costs incurred by the local government relating to negotiation, mediation and arbitration activities under this section;
(3) Screening, fencing, and other matters related to the appearance of a facility;
(4) Operational concerns other than design capacity and regulatory issues;
(5) Traffic flows and patterns which result from the operation of a facility;
(6) Uses of the site where a facility is located after the facility is closed;
(7) The applicability or nonapplicability of any local ordinance;
(8) Emergency response capabilities, including training and resources;
(9) Access to facility records and monitoring data; and
(10) Ongoing health surveys of persons living in the area around the facility.

(e) In addition to those issues set out in subsection (d), ~~upon petition to the Board by a local government in the county or counties where a hazardous waste facility is proposed to be located,~~ any other issue may be submitted for arbitration except:

(1) Those issues excluded from negotiation under subsection (a) of this section;

(2) Any issue relating to the imposition by the General Assembly of a tax, or the imposition of a fee not authorized by this Chapter; and

(3) Any issue requiring an appropriation by the General Assembly.

~~(f) The Board shall serve as the arbitrator or shall appoint the arbitrator of any issue submitted for arbitration under this section.~~"

Sec. 26. G.S. 130B-22(a) reads as rewritten:

"(a) To assist the Commission in the performance of its responsibilities under this Chapter and to advise the General Assembly, there is created the Inter-Agency Committee on Hazardous Waste (herein called the 'Committee'). The members shall be: ~~the Chairman of the Board; the Chairman of the Board's Technical Committee on Hazardous Waste;~~ the Secretary or the Secretary's designee; the Director of the Solid Waste Management Division of the Department or his designee; the Chief of the Hazardous Waste Management Section of the Solid Waste Management Division or his designee; one additional representative of the Solid Waste Management Division with expertise in CERCLA/SARA capacity assurance requirements appointed by the Director of the Division, the Chairman of the Commission or his designee; one additional member of the Commission appointed by the Chairman of the Commission; the Executive Director of the Commission; the Director of the Pollution Prevention Pays Program; four representatives of the Department of Environment, Health, and Natural Resources with expertise in geology, groundwater, water quality, and air quality; the representative of the Attorney General's office who provides legal services to the Commission; and a representative of the Attorney General's office who provides legal services to the Solid Waste Management Division designated by the Director of the Solid Waste Management Division with the approval of the Attorney General. The ~~Chairman of the Board~~ Secretary or the Secretary's designee shall serve as the Chairman of the Committee, and the ~~Board~~ Solid Waste Management Division of the Department shall provide professional and clerical support to the Committee."

Sec. 27. G.S. 143B-279.3(b)(1) is repealed.

Sec. 28. Article 7 of Chapter 143B is amended by adding a new Part 4B to read:

"Part 4B. Office of Environmental Education.

"*§ 143B-285.20. Short title.*

This Part shall be known and cited as the Environmental Education Act of 1993.

"*§ 143B-285.21. Declaration of purpose.*

The purpose of this Part shall be to encourage, promote, and support the development of programs, facilities, and materials for the purpose of environmental education in North Carolina.

"*§ 143B-285.22. Creation.*

There is hereby created a North Carolina Office of Environmental Education (hereinafter referred to as 'Office') within the Department of Environment, Health, and Natural Resources.

"*§ 143B-285.23. Powers and duties of the Secretary of Environment, Health, and Natural Resources.*

The Secretary of Environment, Health, and Natural Resources shall:

(1) Establish an Office of Environmental Education to:
   a. Serve as a clearinghouse of environmental information for the State.
   b. Plan for the Department's future needs for environmental education materials and programs.
   c. Maintain a computerized database of existing education materials and programs within the Department.
   d. Maintain a speaker's bureau of environmental specialists to address environmental concerns and issues in communities across the State.
   e. Evaluate opportunities for establishing regional environmental education centers.
   f. Administer the Project Tomorrow Award Program to encourage school children to discover and explore ways to protect the environment.
   g. Assist the Department of Public Instruction in integrating environmental education into course curricula.
   h. Develop and implement a grants and award program for environmental education projects in schools and communities.

(2) Coordinate, through technical assistance and staff support and with participation of the Department of Public Instruction and other relevant agencies, institutions, and citizens, the planning and implementation of a statewide program of environmental education.

(3) Be responsible for such matters as the purchase of educational equipment, materials, and supplies; the construction or modification of facilities; and the employment of consultants and other personnel necessary to carry out the provisions of this Part.

(4) Encourage coordination between the various State and federal agencies, citizens groups, and the business and

industrial community, in the dissemination of environmental information and education.

(5) Utilize existing programs, educational materials, or facilities, both public and private, wherever feasible.

"*§ 143B-285.24. Grants and awards.*

The objective of grants and awards made under the provisions of this Part shall be to promote the further development of local and regional environmental education and information dissemination to aid especially, but not be limited to, school-age children. The Office shall recommend each year to the Governor recipients for the Project Tomorrow Award, which the Governor shall award for outstanding environmental projects by elementary schools in North Carolina.

"*§ 143B-285.25. Liaison between the Office of Environmental Education and the Department of Public Instruction.*

The Superintendent of the Department of Public Instruction shall identify an environmental education liaison within the Office of Instructional Services of the Department of Public Instruction to:

(1) Coordinate environmental education within the State curriculum and among the Department and other State agencies.

(2) Conduct teacher training in environmental education topics in conjunction with Department and other State agencies.

(3) Coordinate and integrate topics within the various curriculum areas of the standard course of study.

(4) Promote awareness of environmental issues to the public and to the school communities, including students, teachers, and administrators.

(5) Establish a repository of environmental education instructional materials and disseminate information on the availability of these materials to schools.

(6) Promote and facilitate the sharing of information through electronic networks to all schools."

Sec. 29. G.S. 150B-1(e)(2) is repealed.

Sec. 30. There is created the Pollution Prevention Advisory Council.

(a) The Council shall consist of 15 members as follows:

(1) The Secretary of Environment, Health, and Natural Resources or the Secretary's designee.

(2) The Secretary of Commerce or the Secretary's designee.

(3) Four members appointed by the Governor as follows: one representative of industry; one representative of small business; one representative of the environmental and conservation community; and one citizen representative.

(4) Four members appointed by the President Pro Tempore of the Senate as follows: one member of the Environmental Review Commission; one representative of industry; one representative of the environmental and conservation community; and one representative of county government.

(5) Four members appointed by the Speaker of the House of Representatives as follows: one member of the Environmental Review Commission; one representative of industry; one representative of the environmental and conservation community; and one representative of city government.

(6) One member appointed by the Lieutenant Governor from the general public.

(b) The Secretary of Environment, Health, and Natural Resources or the Secretary's designee shall serve as chair of the Council.

(c) The Council shall, in an advisory capacity, assist the Governor, the Secretary of Environment, Health, and Natural Resources, the Secretary of Commerce, and the General Assembly in reviewing issues relating to hazardous waste management, including, but not limited to:

(1) The regulation of hazardous waste generation and management in North Carolina;

(2) The potential to promote greater reduction of waste generation through new and existing programs and policies; and

(3) The hazardous waste management capacity needs of North Carolina business and industry.

(d) Any appointed member of the Council may be removed by the appointing authority for misfeasance, malfeasance, or nonfeasance. A member who fails to attend three consecutive meetings of the Council shall cease to be a member of the Council. Vacancies shall be filled by the appointing authority.

(e) The Council shall meet upon the call of the Chair. A majority of the Council shall constitute a quorum for the transaction of business.

(f) Any person who is a member of the Council may hold such membership concurrently with and in addition to any other elective or appointive office or offices such as a person is permitted to hold under G.S. 128-1.1.

(g) Members of the Council who are not State employees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(h) All clerical services required by the Council shall be supplied by the Department of Environment, Health, and Natural Resources. The Attorney General shall provide legal services provided by the Council. The Council may select outside contractors to provide technical and other support services pursuant to the budgetary provisions in this act.

(i) The Council shall hold public meetings in at least three locations to receive public comments. The Council may prepare separate reports on issues it selects. The Council shall make an interim report to the Governor, the Secretary of Environment, Health, and Natural Resources, the Secretary of Commerce, and the Environmental Review Commission of the General Assembly on or before March 1, 1994. The Council shall make its final written report to the same bodies on or before October 1, 1994. Upon making its final written report, the Council shall terminate.

Sec. 31. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.B. 1260 **CHAPTER 502**

AN ACT TO ESTABLISH THE MARTIN LUTHER KING, JR. COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 143B of the General Statutes is amended by adding the following new Part:

"Part 27A. Martin Luther King, Jr. Commission.

"*§ 143B-426.34A. Martin Luther King, Jr. Commission -- creation; powers and duties.*

There is hereby created the Martin Luther King, Jr. Commission of the Department of Administration. The Martin Luther King, Jr. Commission shall have the following functions and duties:

(1) To encourage appropriate ceremonies and activities throughout the State relating to the observance of the legal holiday honoring Martin Luther King, Jr.'s birthday;

(2) To provide advice and assistance to local governments and private organizations across the State with respect to the observance of such holiday; and

(3) To promote among the people of North Carolina an awareness and appreciation of the life and work of Martin Luther King, Jr.

"*§ 143B-426.34B. Martin Luther King, Jr. Commission -- members; selection; quorum; compensation.*

(a) The Martin Luther King, Jr. Commission of the Department of Administration shall consist of 16 members. The Governor shall appoint 12 members, one of whom he shall designate as the chair of the Commission. The Governor shall make reasonable efforts to assure that his appointees are equally distributed geographically throughout the State. The President Pro Tempore of the Senate shall appoint two members and the Speaker of the House of Representatives shall appoint two members. The terms of four of the members appointed by the Governor shall expire June 30, 1997. The terms of four of the members appointed by the Governor shall expire June 30, 1996. The terms of four of the members appointed by the Governor shall expire June 30, 1994. The terms of the members appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire June 30, 1995. At the end of the respective terms of office of the initial members of the Commission, the appointment of their successors shall be for terms of four years. No member of the Commission shall serve more than two consecutive terms. A member having served two consecutive terms shall be eligible for reappointment one year after the expiration of the second term. A member who fails to attend any three meetings of the Commission shall be dismissed automatically from the Commission upon failure to attend the third such meeting. Provided, however, that the Commission may, by majority vote, reinstate any such dismissed member for the remainder of the unexpired term for good cause shown for failing to attend the meetings. Vacancies shall be filled by the appointing officer for the unexpired term.

(b) A majority of the Commission shall constitute a quorum for the transaction of business.

(c) Members of the Commission shall be compensated for their services as authorized by G.S. 138-5. Members of the Commission who are State officials or employees shall be reimbursed as authorized by G.S. 138-6.

(d) The Department of Administration shall provide necessary clerical and administrative support services to the Commission."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.B. 479 **CHAPTER 503**

AN ACT TO ESTABLISH THE SENIOR TAR HEEL LEGISLATURE.

Whereas, North Carolina has over 900,000 citizens 65 and older; and

Whereas, older adults now comprise the fastest growing segment of North Carolina's population with North Carolina experiencing a growth rate of 33% for individuals 65 and older compared with a growth rate of 13% for North Carolina as a whole; and

Whereas, by the year 2000 older adults will constitute 13% of the total population; and

Whereas, over 40,000 retirees relocate in North Carolina each year which ranks North Carolina fifth nationally in attracting out-of-state retirees; and

Whereas, older citizens have contributed greatly to the economic development of North Carolina and will continue to contribute because of their increased numbers; and

Whereas, there is a subgroup (19.5%) of our older citizens who have incomes less than the federal poverty level; and

Whereas, the rapid aging of the citizens of the State will mandate attention to health care, housing, community-based services, recreation, and volunteerism used by older adults and their families; and

Whereas, older North Carolinians can best judge their own needs and concerns and should be their own best advocates; and

Whereas, the General Assembly each session attempts to address these needs with the introduction of a wide variety of proposals aimed at specific aging issues; and

Whereas, we are in a period of diminishing public resources; and

Whereas, these circumstances require the setting of priorities regarding which aging programs and services are most vital to establish and maintain; and

Whereas, the senior citizens legislature as a model legislature session has proved successful in Florida, Georgia, Indiana, Iowa, Missouri, and California; and

Whereas, the Senior Tar Heel Legislature will offer older North Carolinians a forum for setting their legislative priorities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 143B of the General Statutes is amended by adding a new Part 14F to read:

"Part 14F.

"Senior Tar Heel Legislature.

"§ *143B-181.55. Creation, membership, meetings, organization, and adoption of measures.*

(a) There is created the North Carolina Senior Tar Heel Legislature. It shall:

(1) Provide information and education to senior citizens on the legislative process and matters being considered by the General Assembly;

(2) Promote citizen involvement and advocacy concerning aging issues before the General Assembly; and

(3) Assess the legislative needs of older citizens by convening a forum modeled after the General Assembly.

(b) The delegates to the Senior Tar Heel Legislature shall be age 60 or over and shall be duly selected pursuant to procedures developed by the Department of Human Resources, Division of Aging, and approved by the Secretary of the Department in consultation with senior citizens advocacy groups who have given written notice to the Division of Aging that they desire to be consulted. The Senior Tar Heel Legislative Session shall be organized and coordinated by the Division with Area Agencies on Aging organizing the local election procedures and other related matters. At the conclusion of each session, the Senior Tar Heel Legislature shall make a report of that session's proceedings and recommendations to the General Assembly. Delegates to the Senior Tar Heel Legislature shall be from each county.

(c) The Senior Tar Heel Legislature is authorized to meet one day in March of every year beginning in 1994 but shall hold its first session no later than August 1993. The sessions shall be held in the State Capitol or in a building to be selected by the Governor or the Governor's designee. The Senior Tar Heel Legislature is authorized to adopt bylaws to govern its internal procedures and is authorized to adopt such recommendations as it deems appropriate to present to the General Assembly for consideration.

(d) A report of the proceedings of each session of the Senior Tar Heel Legislature shall be presented to the next Regular Session of the North Carolina General Assembly."

Sec. 2. G.S. 143B-181.1 reads as rewritten:

"§ *143B-181.1. Division of Aging -- creation, powers and duties.*

(a) There is hereby created within the office of the Secretary of the Department of Human Resources a Division of Aging, which shall have the following functions and duties:

(1) To maintain a continuing review of existing programs for the aging in the State of North Carolina, and periodically make recommendations to the Secretary of Human Resources for transmittal to the Governor and the General Assembly as appropriate for improvements in and additions to such programs;

(2) To study, collect, maintain, publish and disseminate factual data and pertinent information relative to all aspects of aging. These include the societal, economic, educational, recreational and health needs and opportunities of the aging;

(3) To stimulate, inform, educate and assist local organizations, the community at large, and older people themselves about aging, including needs, resources and opportunities for the aging, and about the role they can play in improving conditions for the aging;

(4) To serve as the agency through which various public and nonpublic organizations concerned with the aged can exchange information, coordinate programs, and be helped to engage in joint endeavors;

(5) To provide advice, information and technical assistance to North Carolina State government departments and agencies and to nongovernmental organizations which may be considering the inauguration of services, programs, or facilities for the aging, or which can be stimulated to take such action;

(6) To coordinate governmental programs with private agency programs for aging in order that such efforts be effective and that duplication and wasted effort be prevented or eliminated;

(7) To promote employment opportunities as well as proper and adequate recreational use of leisure for older people, including opportunities for uncompensated but satisfying volunteer work;

(8) To identify research needs, encourage research, and assist in obtaining funds for research and demonstration projects; ~~and~~

(9) To establish or help to establish demonstration programs of services to the aging;

(10) To establish a fee schedule to cover the cost of providing in-home and community-based services funded by the Division. The fees may vary on the basis of the type of service provided and the ability of the recipient to pay for the service. The fees may be imposed on the recipient of a service unless prohibited by federal law. The local agency shall retain the fee and use it to extend the availability of in-home and community-based services provided by the Division in support of functionally impaired older adults and family caregivers of functionally impaired older adults; ~~[and]~~

(11) To administer a Home and Community Care Block Grant for older adults, effective July 1, 1992. The Home and Community Care Block Grant shall be comprised of applicable Older Americans Act funds, Social Services Block Grant funding in support of the Respite Care Program (G.S. 143B-181.10), State funds for home and community care services administered by the Division of Aging, portions of the State In-Home and Adult Day Care funds (Chapter 1048, 1981 Session Laws) administered by the Division of Social Services which support services to older adults, and other funds appropriated by the General Assembly as part of the Home and Community Care Block Grant. Funding currently administered by the Division of Social Services to be included in the block grant will be based on the expenditures for older adults at a point in time to be mutually determined by the Divisions of Social Services and Aging. The total amount of Older Americans Act funds to be included in the Home and Community Care Block Grant and the matching rates for the block grant shall be established by the Department of Human Resources, Division of Aging. Allocations made to counties in support of older adults shall not be less than resources made available for the period July 1, 1990, through June 30, 1991, contingent upon availability of current State and federal ~~funding.~~ funding; and

(12) To organize, coordinate, and provide staff support to the North Carolina Senior Tar Heel Legislature.

(b) The Division shall function under the authority of the Department of Human Resources and the Secretary of Human Resources as provided in the Executive Organization Act of 1973 and shall perform such other duties as are assigned by the Secretary.

(c) The Secretary of Human Resources shall adopt rules to implement this Part and Title 42, Chapter 35, of the United States Code, entitled Programs for Older Americans."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 586 **CHAPTER 504**

AN ACT TO MAKE TECHNICAL AMENDMENTS, CLARIFICATIONS, AND CORRECTIONS IN VARIOUS INSURANCE AND INSURANCE-RELATED LAWS AND TO MAKE CHANGES TO THE LAWS ON SERVICE

AGREEMENTS FOR MOTOR VEHICLES AND HOME APPLIANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-2-165 reads as rewritten:

"*§ 58-2-165. Annual, semiannual, monthly, or quarterly statements to be filed with Commissioner.*

(a) Every insurance company shall file in the Commissioner's office, on or before March 1 of each year, a statement showing the business standing and financial condition of the company, association, or order on the preceding December 31, signed and sworn to by the chief managing agent or officer thereof, before the Commissioner or some officer authorized by law to administer oaths. Provided, the Commissioner may, for good and sufficient cause shown by an applicant company, extend the filing date of the company's annual statement, for a reasonable period of time, not to exceed 30 days. ~~However,~~ In addition, the Commissioner may require any insurance company, association, or order to file its statement ~~semiannually or quarterly~~ semiannually, quarterly, or monthly.

(b) The Commissioner may require statements under this section, G.S. 58-2-170, ~~G.S. 58-2-175,~~ and G.S. 58-2-190 to be filed in a format that can be read by electronic data processing ~~equipment; and may require these readable statements to be filed on a monthly basis.~~ equipment.

(c) All statements filed under this section must be prepared in accordance with the appropriate NAIC Annual Statement Instructions Handbook and pursuant to the NAIC Accounting Practices and Procedures Manual and on the NAIC Model Financial Statement Blank, unless further modified by the Commissioner as the Commissioner considers to be appropriate."

Sec. 2. G.S. 58-4-5 reads as rewritten:

"*§ 58-4-5. Filing requirements.*

(a) Each domestic, foreign, and alien insurer that is authorized to transact insurance in this State shall file with the NAIC a copy of its financial statements required by G.S. 58-2-165, applicable rules, and legal directives and bulletins issued by the Department. The statements shall, in the Commissioner's discretion, be filed annually, semiannually, ~~or~~ quarterly, or monthly and shall be filed in a form or format prescribed or permitted by the Commissioner. The Commissioner may require the statements to be filed in a format that can be read by electronic data processing equipment. Any amendments and addenda to the financial statement that are subsequently filed with the Commissioner shall also be filed with the NAIC.

(b) Foreign insurers that are domiciled in a state that has a law or regulation substantially similar to this Article shall be deemed to be in compliance with this section."

Sec. 3. G.S. 58-5-55 reads as rewritten:

"§ *58-5-55. Deposits of capital and surplus by domestic insurance companies.*

(a) In addition to other requirements of Articles 1 through 64 of this Chapter, all domestic stock insurance companies shall deposit their required statutory capital with the Department. Such deposits shall be under the exclusive control of the Department, for the protection of ~~all policyholders wheresoever situated,~~ policyholders.

(b) In addition to other requirements of Articles 1 through 64 of this Chapter, all domestic mutual insurance companies shall deposit at least fifty percent (50%) of their minimum required surplus with the Department, with the amount of the deposit to be determined by the Commissioner. Such deposits shall be under the exclusive control of the Department, for the protection of ~~all policyholders wheresoever situated,~~ policyholders."

Sec. 4. The final paragraph of G.S. 58-7-35 reads as rewritten:

"~~Any~~ Subject to G.S. 58-8-5, any proposed change in ~~or amendment to~~ the articles of ~~incorporation, charter, or bylaws~~ incorporation shall be ~~promptly~~ filed with the ~~Commissioner.~~ Commissioner, who shall examine the change. If the Commissioner approves the change, the Commissioner shall place a certificate of approval on the change, and forward it to the Secretary of State."

Sec. 5. G.S. 58-7-45 reads as rewritten:

"§ *58-7-45. Bylaws; classification and election of ~~directors.~~ directors; amendments.*

(a) A domestic company may adopt bylaws for the conduct of its business that are not repugnant to law or its ~~charter,~~ articles of incorporation and therein provide for the division of its board of directors into two, three, or four classes, and the election thereof at its annual meetings so that the members of one class only shall retire and their successors be chosen each year. Vacancies in any such class may be filled by election by the board for the unexpired term.

(b) Any change in the bylaws of a domestic company shall be promptly filed with the Commissioner."

Sec. 6. G.S. 58-7-183(b) reads as rewritten:

"(b) In no case shall the investments authorized under this section being held by an insurer be greater than the amount by which the insurer's policyholders' surplus exceeds the minimum ~~reserves and policyholders' surplus~~ required to be maintained."

Sec. 7. G.S. 58-13-5 reads as rewritten:

"§ *58-13-5. Purposes.*

The purposes of this Article are to require insurers to maintain unencumbered assets in amounts equal to ~~reserve~~ policyholder-related liabilities and minimum required capital and minimum required surplus; to provide preferential claims against insurers' assets in favor of owners, beneficiaries, assignees, and holders of insurance policies and certificates; and to prevent the pledging, hypothecation, or encumbrance of assets without a prior written order of the Commissioner."

Sec. 8. G.S. 58-13-15(4) reads as rewritten:

"(4) '~~Reserve~~ 'Policyholder-related liabilities' means those liabilities that are required to be established by an insurer for all of its outstanding insurance policies in accordance with Articles 1 through 64 of this Chapter and G.S. 58-65-95."

Sec. 9. G.S. 58-13-20(a) reads as rewritten:

"(a) This Article does not apply to those reserve assets of an insurer that are held, deposited, pledged, hypothecated, or otherwise encumbered as provided in this section to secure, offset, protect, or meet those ~~reserve~~ policyholder-related liabilities of the insurer that are established, incurred, or required under the provisions of a reinsurance agreement whereby the insurer has reinsured the insurance policy liabilities of a ceding insurer, provided:

(1) The ceding insurer and the reinsurer are both licensed to transact business in this State;

(2) Pursuant to a written agreement between the ceding insurer and the reinsurer, reserve assets substantially equal to the ~~reserve~~ policyholder-related liabilities required to be established by the reinsurer on the reinsured business are either (i) deposited by or are withheld from the reinsurer and are in the custody of the ceding insurer as security for the payment of the reinsurer's obligations under the reinsurance agreement, and such assets are held subject to withdrawal by and under the separate or joint control of the ceding insurer, or (ii) deposited and held in trust account for that purpose and under those conditions with a State or national bank domiciled in this State."

Sec. 10. G.S. 58-13-25 reads as rewritten:

"*§ 58-13-25. Prohibition of hypothecation.*

(a) Every insurer subject to this Article shall at all times have and maintain free and unencumbered reserve assets equal to an amount that is at least ten percent (10%) more than the total of its ~~reserve~~ policyholder-related liabilities and its required minimum capital and minimum surplus and shall not pledge, hypothecate, or otherwise encumber those reserve assets. The Commissioner, upon application

made to the Commissioner, may issue a written order approving the pledging, hypothecation, or encumbrance of any of the assets of an insurer not otherwise prohibited upon a finding that the pledging, hypothecation, or encumbrance will not adversely affect the insurer's solvency.

(b) Every insurer shall file, along with ~~its~~ any statement filed under G.S. 58-2-165, a statement sworn to by the chief executive officer of the insurer that: (i) Title to assets in an amount equal to the ~~reserve~~ policyholder-related liabilities and minimum required capital and minimum required surplus of the insurer that are not pledged, hypothecated, or otherwise encumbered is vested in the insurer; (ii) the only assets of the insurer that are pledged, hypothecated, or otherwise encumbered are as identified and reported in the sworn statement and no other assets of the insurer are pledged, hypothecated, or otherwise encumbered; and (iii) the terms and provisions of the transaction of the pledge, hypothecation, or encumbrance are as reported in the sworn statement.

(c) Any person that accepts a pledge, hypothecation, or encumbrance of any asset of an insurer, as security for a debt or other obligation of the insurer, not in accordance with this Article, is deemed to have accepted the asset subject to a superior, preferential, and automatically perfected lien in favor of claimants: Provided, that said lien does not apply to the assets of an insurer in a delinquency proceeding under Article 30 of this Chapter if the Commissioner or the court, whichever is appropriate, approves the pledge, hypothecation, or encumbrance of the assets.

(d) In the event of the liquidation of any insurer subject to this Article, claimants of the insurer shall have a prior and preferential claim against all assets of the insurer except those that have been pledged, hypothecated, or encumbered in accordance with this Article. Subject to Article 30 of this Chapter, all claimants have equal status; and their prior and preferential claims are superior to any claim or cause of action against the insurer by any other person."

Sec. 11. G.S. 58-19-10(b) reads as rewritten:

"(b) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under all other sections of Articles 1 through 64 of this Chapter, a domestic insurer may also:

(1) Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts that do not exceed the lesser of ten percent (10%) of such insurer's admitted assets or fifty percent (50%) of such insurer's surplus as regards policyholders, provided that after such investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's

outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, investments in domestic or foreign insurance subsidiaries shall be excluded, and there shall be included: (i) total net monies or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and (ii) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation;

(2) Invest any amount in common stock, preferred stock, debt ~~obligation~~ obligations and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer; provided that such subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in subdivision (b)(1) of this section or in Article 7 of this Chapter applicable to the insurer. For the purposes of this section, 'the total investment of the insurer' includes: (i) any direct investment by the insurer in an asset; and (ii) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of such subsidiary.

(3) With the approval of the Commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries; provided that after such investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs."

Sec. 12. G.S. 58-19-15(e) reads as rewritten:

"(e) The public hearing referred to in subsection (d) of this section shall be held within 120 days after the statement required by subsection (a) of this section is filed, and the Commissioner shall give at least 30 days notice of the hearing to the person filing the statement, to the insurer, and to such other persons as may be designated by the Commissioner. The Commissioner shall make a determination as expeditiously as it reasonably practicable after the

conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by the hearing shall have the right to present evidence, examine and cross-examine witnesses, and offer oral or written arguments; and in connection therewith shall be entitled to conduct discovery proceedings at any time after the statement is filed with the Commissioner under this section and in the same manner as is presently allowed in the superior courts of this State. In connection with discovery proceedings authorized by this section, the Commissioner may issue such protective orders and other orders governing the timing and scheduling of discovery proceedings as might otherwise have been issued by a superior court of this State in connection with a civil proceeding. If any party fails to make reasonable and adequate response to discovery on a timely basis or fails to comply with any order of the Commissioner with respect to discovery, the Commissioner on the Commissioner's own motion or on motion of any other party or person may order that the hearing be postponed, recessed, convened, or reconvened, as the case may be, following proper completion of discovery and reasonable notice to the person filing the statement, to the insurer, and to such other persons as may be designated by the Commissioner."

Sec. 13. G.S. 58-19-25(c) reads as rewritten:

"(c) No information need be disclosed on the registration statement filed pursuant to subsection (b) of this section if such information is not material for the purposes of this section. Unless the Commissioner by rule or order provides otherwise, all sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent (1/2%) or less of an insurer's admitted assets as of the ~~31st day of December next~~ preceding December 31 are not material for the purposes of this section."

Sec. 14. G.S. 58-19-50(a) reads as rewritten:

"(a) Any person failing, without just cause, to file any registration statement as required in this Article shall pay, after notice and hearing, a civil penalty of one hundred dollars ($100.00) for each day's delay, not to exceed a total penalty of one thousand dollars ($1,000), to the Commissioner, who shall forward the clear proceeds to the General Fund of this State."

Sec. 15. G.S. 58-26-1(b) reads as rewritten:

"(b) Such companies shall be subject to:

(1) The same capital, surplus and investment requirements as govern the formation and operation of domestic stock casualty companies.

(2) The same deposit requirements governing the operation of other ~~state~~ domestic or foreign casualty companies in this State; and

(3) Repealed by Session Laws 1985, c. 666, s. 43."

Sec. 16. G.S. 58-23-40 reads as rewritten:

"*§ 58-23-40. Pools not covered by guaranty ~~associations or solvency funds~~ associations.*

The provisions of Articles 48 and 62 of this Chapter and of ~~Articles 3 and~~ Article 4 of Chapter 97 of the General Statutes do not apply to any risks retained by local governments pursuant to this Article."

Sec. 17. G.S. 58-26-10 reads as rewritten:

"*§ 58-26-10. Financial statements and licenses required.*

Title insurance companies are subject to G.S. 58-2-131, 58-2-132, 58-2-133, ~~58-2-165~~ 58-2-165, ~~and 58-2-180~~ 58-2-180, and 58-6-5. The Commissioner may require title insurance companies to separately report their experience in insuring titles and in insuring closing services. The Commissioner shall annually license such companies and their ~~agents, and have the same power and authority to visit and examine such corporations as he has in the case of other domestic insurance companies, and the duties and liabilities of such corporations and their agents in reference to such examinations are the same as those of other domestic insurance companies.~~ agents."

Sec. 18. G.S. 58-26-15 reads as rewritten:

"*§ 58-26-15. ~~Investment of capital.~~ Limitation of risk.*

~~Any real estate title insurance company having a capital stock of more than fifty thousand dollars ($50,000), may, with the consent of the Commissioner, after investing fifty thousand dollars ($50,000) of the capital, as provided in Articles 1 through 64 of this Chapter, invest not to exceed one fourth of the total capital stock in abstract or title plants, and no such company~~ No real estate title insurance company shall guarantee or insure in any one risk on real property located in North Carolina more than forty percent (40%) of its combined capital and surplus without first having the approval of the Commissioner, which approval shall be endorsed upon the policy."

Sec. 19. G.S. 58-26-20 reads as rewritten:

"*§ 58-26-20. Unearned premium reserve.*

Every domestic title insurance company shall, in addition to other reserves, establish and maintain a reserve to be known as the 'unearned premium reserve' for title insurance, which shall at all times and for all purposes be considered and constitute unearned portions of the original risk premiums and shall be charged as a reserve liability of such title insurance company in determining its financial conditions. ~~While said sums are so reserved they~~ The unearned premium reserve shall be withdrawn from the use of the

insurer for its general purposes and ~~impressed with a trust~~ placed in a trust account, as approved by the Commissioner, in favor of the holders of title policies and held available for reinsurance of the title policies in the event of insolvency of the insurer. Nothing herein contained shall preclude such an insurer from investing said reserve in investments authorized by law for such an insurer, and the income from such invested reserve shall be included in the general income of the insurer to be used by such insurer for any lawful purpose."

Sec. 20. G.S. 58-28-5(a) reads as rewritten:

"(a) Except as hereinafter provided, it shall be unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this State as set forth in G.S. 58-28-10, without a certificate of authority issued by the Commissioner. This section shall not apply to the following acts or transactions:

(1) The procuring of a policy of insurance upon a risk within this State where the applicant is unable to procure coverage in the open market with admitted companies and is otherwise in compliance with Article 21 of this Chapter;

(2) Contracts of reinsurance; but not including assumption reinsurance transactions, whereby the reinsuring company succeeds to all of the liabilities of and supplants the ceding company on the insurance contracts that are the subject of the transaction, unless prior approval has been obtained from the Commissioner;

(3) Transactions in this State involving a policy lawfully solicited, written and delivered outside of this State covering only subjects of insurance not resident, located or expressly to be performed in this State at the time of issuance, and which transactions are subsequent to the issuance of such policy;

(4) Transactions in this State involving group life insurance, group annuities, or group, blanket, or franchise accident and health insurance where the master policy of such insurance was lawfully issued and delivered in a state where the company was authorized to transact business;

(5) Transactions in this State involving all policies of insurance issued prior to July 1, 1967;

(6) The procuring of contracts of insurance issued to a nuclear insured;

(7) Insurance independently procured, as specified in subsection (b) of this section;

(8) Insurance on vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other

risks commonly insured under marine insurance policies, as distinguished from inland marine insurance policies."

Sec. 21. G.S. 58-31-55 reads as rewritten:

"*§ 58-31-55. Insurance and official fidelity bonds for State agencies to be placed by Department; exception; costs of placement.*

Except as provided in G.S. 58-32-15, all insurance and all official fidelity and surety bonds authorized for State departments, institutions, and agencies shall be effected and placed by the Department, and the cost of such placement shall be paid by the ~~Department,~~ State department, institution, or agency involved upon bills rendered to and approved by the Commissioner."

Sec. 22. G.S. 58-33-25(c) reads as rewritten:

"(c) An agent or broker may be licensed for the following kinds of insurance:

(1) ~~Life, Accident~~ Life and Health Insurance
(2) Accident and Health Insurance
(3) ~~Fire and Casualty~~ Property and Liability Insurance
(4) Repealed by Session Laws 1989, c. 485, s. 17, effective June 28, 1989.
(5) Title Insurance
(6) Repealed by Session Laws 1989, c. 485, s.17, effective June 28, 1989.
(7) Automobile Physical Damage.
(8) Medicare Supplement Insurance and Long-Term Care Insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection.

~~Any person who holds a valid license on February 1, 1988, which grants authority to act as an agent for the kinds of insurance described in this subsection shall be issued the equivalent agent's license for such kinds of insurance.~~"

Sec. 23. G.S. 58-33-25(d) reads as rewritten:

"(d) A ~~fire and casualty~~ property and liability insurance license shall not authorize an agent to sell accident and health insurance. An agent must hold a ~~life, accident~~ life and health insurance license ~~or an accident and health insurance license~~ to sell accident and health insurance."

Sec. 24. G.S. 58-33-25(d1) reads as rewritten:

"(d1) A ~~life, accident~~ life and health insurance license ~~shall authorize~~ authorizes an agent to sell variable contracts, ~~provided that~~ if the ~~licensee~~ agent satisfies the Commissioner that he has met the NASD requirements of the Secretary of State of North Carolina."

Sec. 25. G.S. 58-33-25(d2) reads as rewritten:

"(d2) A ~~life, accident,~~ life and health license ~~or an accident and health license~~ authorizes an agent to sell Medicare supplement and

long-term care insurance policies as defined respectively in Articles 54 and 55 of this Chapter, provided that the licensee takes and passes a supplemental written examination for such insurance as provided in G.S. 58-33-30(e) and pays the supplemental registration fee provided in G.S. 58-33-125(c)."

Sec. 26. G.S. 58-33-30(g) reads as rewritten:

"(g) Denial of License. -- If the Commissioner finds that the applicant has not fully met the requirements for licensing, he shall refuse to issue the license and shall notify in writing the applicant and the appointing insurer, if any, of such denial, stating the grounds therefor. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under G.S. 58-33-45(a). Within 30 days after service of the notification, the applicant may make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome."

Sec. 27. The catch line of G.S. 58-33-45 reads as rewritten:

"*§ 58-33-45. ~~Denial, suspension,~~ Suspension, revocation, or nonrenewal of ~~licenses and appointments~~ licenses.*"

Sec. 27.1. G.S. 58-33-45(a) reads as rewritten:

"(a) The Commissioner may suspend, revoke, or refuse to ~~issue or~~ renew any license issued under this Article if, ~~after notice to the licensee or applicant and hearing~~ in accordance with the provisions of Article 3A of Chapter 150B, he finds as to the licensee any one or more of the following conditions:

(1) Any untrue material statement in the license application;

(2) Any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner at the time of issuance;

(3) Violation of, or noncompliance with, any insurance laws, or of any lawful rule, or order of the Commissioner or of a Commissioner of another state;

(4) Obtaining or attempting to obtain any such license through misrepresentation or fraud;

(5) Improperly withholding, misappropriating, or converting to his own use any moneys belonging to policyholders, insurers, beneficiaries or others received in the course of his insurance business;

(6) Misrepresentation of the terms of any actual or proposed insurance contract;
(7) Willfully overinsuring property;
(8) Conviction of a misdemeanor involving moral turpitude, or conviction of a felony;
(9) The person has been found guilty of any unfair trade practice or fraud;
(10) In the conduct of his affairs under the license, the licensee has used fraudulent, coercive or dishonest practices, or has shown himself to be incompetent, untrustworthy, or financially irresponsible;
(11) His license has been suspended or revoked in any other state, province, district, or territory;
(12) The person has forged another's name to an application for insurance; or
(13) The person has cheated on an examination for an insurance license."

Sec. 28. G.S. 58-33-45(c) is repealed.

Sec. 29. G.S. 58-33-50 reads as rewritten:

"§ *58-33-50. Notices; loss of residency; duplicate licenses.* ~~*Surrender, loss or destruction of license.*~~

(a) The Commissioner shall notify ~~all appointing insurers, where applicable, and the licensee regarding~~ every appointing insurer about any suspension, revocation, or nonrenewal of a license by the ~~Commissioner.~~ Commissioner and about any surrender of a license by a licensee, whether by consent order or otherwise.

(b) Upon suspension, ~~revocation~~ revocation, nonrenewal, surrender, or reinstatement of any license, the Commissioner shall notify the Central Office of the NAIC.

(c) Any licensee who ceases to maintain his residency in this State ~~as defined in G.S. 58-33-30~~ shall deliver his insurance license or licenses to the Commissioner by personal delivery or by mail within 30 days after terminating ~~said~~ residency.

(d) The Commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to this Article upon a written request from the licensee and payment of appropriate fees."

Sec. 30. G.S. 58-48-125 reads as rewritten:

"§ *58-48-125. Payments by the Association.*

The accounts created in G.S. 58-48-115 and G.S. 58-48-120 shall be used to pay the claims against insolvent stock workers' compensation insurers and insolvent mutual workers' compensation insurers, respectively, pursuant to G.S. ~~58-48-35,~~ 58-48-110(4) where the insolvency occurred prior to January 1, 1993. The expenses of

administering these accounts, including loss adjustment expenses, shall be paid out of the respective accounts."

Sec. 31. G.S. 97-99(a) reads as rewritten:

"(a) Every policy for the insurance of the compensation herein provided, or against liability therefor, shall be deemed to be made subject to the provisions of this Article. No corporation, association or organization shall enter into any such policy of insurance unless its form shall have been approved by the Commissioner of Insurance. No policy form shall be approved unless the same shall provide a 30-day prior notice of an intention to cancel same by the carrier to the insured by registered mail or certified mail. This shall not apply to the expiration date shown in the policy. The carrier may cancel the policy for nonpayment of premium on 10 days' written notice to the insured, and the insured may cancel the policy on 10 days' written notice ~~by registered mail or certified mail~~ to the carrier. Whenever notice of intention to cancel is required to be given by registered or certified mail, no cancellation by the insurer shall be effective unless and until such method is employed and completed."

Sec. 32. G.S. 58-51-30 reads as rewritten:

"*§ 58-51-30. Policies to cover newborn infants and adopted children.*

Every policy of insurance and every hospital service or medical service plan as defined in Articles 65 and 66 of this Chapter, and any health care plan operated by a health maintenance organization as defined in Article 67 of this Chapter (regardless of whether any of such policies or plans shall be defined as individual, family, group, blanket, franchise, industrial or otherwise) that provides benefits on account of any sickness, illness, or disability of any minor child or that provides benefits on account of any medical treatment or service authorized or permitted to be furnished by a hospital under the laws of this State to any minor child shall provide the benefits for those occurrences beginning with the moment of the child's birth if the birth occurs while the policy, subscriber contract, or evidence of coverage with such a plan is in force. Adoptive children shall be treated the same as newborn infants and eligible for coverage on the same basis upon placement in the adoptive home, regardless of whether a final decree of adoption has been entered; provided that a petition for adoption has been duly filed and is pursued to a final ~~degree~~ decree of adoption.

Benefits in such insurance policies, plans, or evidence of coverage shall be the same for congenital defects or anomalies as are provided for most sicknesses or illnesses suffered by minor children which are covered by the policies, plans, or evidence of coverage. Benefits for congenital defects or anomalies shall specifically include, but not be

limited to, all necessary treatment and care needed by individuals born with cleft lip or cleft palate.

No policy or plan subscriber contract or evidence of coverage shall be approved by the Commissioner of Insurance pursuant to the provisions of this Article or the provisions of Articles 65, 66, and 67 of this Chapter that does not comply with the provisions of this section.

The provisions of this section ~~shall~~ apply both to insurers governed by the provisions of Articles 1 through 64 of this Chapter and to corporations governed by the provisions of Articles 65, 66, and 67 of this Chapter."

Sec. 33. G.S. 58-71-85 reads as rewritten:

"§ *58-71-85.* ~~*Notice and hearing before refusal, suspension, revocation, etc., of license.*~~ *License sanction and denial procedures.*

(a) ~~No license shall be suspended, revoked, or renewal refused except on reasonable notice and opportunity to be heard afforded the person licensed or renewal thereof.~~ The suspension or revocation of, or refusal to renew, any license under G.S. 58-71-80 shall be in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes.

(b) Whenever the Commissioner denies an initial application for a ~~license,~~ license or an application for a reissuance of a license, he shall notify the applicant and advise, in writing, the applicant of the reasons for the denial of the license. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under G.S. 58-71-80(a). Within 30 days ~~of~~ after ~~receipt~~ service of the notification, the applicant may make a written demand upon the Commissioner for a ~~hearing~~ review to determine the reasonableness of the Commissioner's action. ~~Such hearing~~ The review shall be ~~scheduled within 30 days from the date of receipt of the written demand,~~ completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome."

Sec. 34. G.S. 143-143.14 reads as rewritten:

"§ *143-143.14. Notice and hearing.*

(a) ~~The Board shall not suspend, revoke or deny a license, or refuse the renewal of a license, or impose a civil penalty, until a written notice of the complaint has been furnished to the licensee or applicant against whom the same is directed, and a hearing thereon has been held before the Board. At least 30 days' written notice of the time and place of the hearing shall be given to the licensee or~~

~~applicant by certified mail to his last known address, as shown on the license or other record of information in possession of the Board. At any such hearing, the licensee or applicant shall have the right to be heard in person or through counsel. After the hearing, the Board shall have the power to deny, suspend, revoke or refuse to renew the license in question, or to impose a civil penalty for violation of the provisions of this Article. Immediate notice of any such action by the Board shall be given to the licensee or applicant in the same manner as provided herein for furnishing notice of the hearing.~~ License suspensions, revocations, and renewal refusals are subject to the provisions of Chapter 150B of the General Statutes.

(b) Within 30 days after receipt of a notification that an application for a license has been denied, the applicant may make a written demand upon the Board for a review by a member of the Department staff designated by the Board to determine the reasonableness of the Board's action. The review shall be completed without undue delay, and the Board shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the Board may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the Board disagrees with the outcome."

Sec. 35. G.S. 143-150 reads as rewritten:

"*§ 143-150. No electricity to be furnished units not in compliance.*

It ~~shall be~~ is unlawful for any ~~individual natural person, partnership, firm or corporation~~ person ~~to allow any electric current for use in any manufactured home to be turned on or to continue~~ to initially furnish electricity for use in ~~such~~ any manufactured home without ~~having first ascertained that either a label of compliance is permanently attached to said manufactured home or a certificate of compliance has been issued for such manufactured home, provided this section shall not apply if electricity to such manufactured home had been turned on or furnished prior to September 1, 1971, by said firm or corporation or if the owner of said manufactured home shall have obtained a certificate of title for said manufactured home as required by G.S. 20-52 prior to September 1, 1971, or his predecessor in title shall have obtained such certificate prior to September 1, 1971, or the owner furnishes other satisfactory evidence on file with the North Carolina Department of Motor Vehicles that said manufactured home was manufactured prior to September 1, 1971,~~ first ascertaining that the manufactured home and its electrical supply has been inspected pursuant to G.S. 143-139 by the inspection authority having jurisdiction and found to comply with the requirements of the State Electrical Code. The certificate of

compliance issued by the inspection jurisdiction shall be accepted as evidence of compliance."

Sec. 36. G.S. 143-151.17 is amended by adding a new subsection to read:

"(d) The Board may deny an application for a certificate for any of the grounds for suspension, revocation, or refusal to grant that are described in subsection (a) of this section. Within 30 days after receipt of a notification that an application for a certificate has been denied, the applicant may make a written demand upon the Board for a review by a member of the Department staff designated by the Board to determine the reasonableness of the Board's action. The review shall be completed without undue delay, and the Board shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the Board may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the Board disagrees with the outcome."

Sec. 37. G.S. 58-33-30(d)(2) reads as rewritten:

"(2) All individual applicants for licensing as ~~life, accident~~ life and health agents or as ~~fire and casualty~~ property and liability agents shall furnish evidence satisfactory to the Commissioner of successful completion of at least 40 hours of instruction, which shall in all cases include the general principles of insurance and any other topics that the Commissioner establishes by regulation; and which shall, in the case of ~~life, accident~~ life and health insurance applicants, include the principles of life, accident, and health insurance and, in the case of ~~fire and casualty~~ property and liability insurance applicants, shall include instruction in ~~fire and casualty~~ property and liability insurance. Any applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a ~~fire and casualty~~ property or liability or life or health insurance company admitted to do business in this State or a professional insurance association shall be deemed to have satisfied the educational requirements of this subdivision. The requirement in this subdivision for completion of 40 hours of instruction applies only to applicants for ~~life, accident~~ life and health or ~~fire and casualty~~ property and liability insurance licenses. The provisions of this subdivision also apply to the applicants for accident and health insurance licenses; except that such applicants shall be required to successfully complete 20 hours of instruction. Such instruction shall in all cases include the general principles of insurance and the principles of accident and health insurance."

Sec. 38. G.S. 58-54-15 reads as rewritten:

"§ *58-54-15. Minimum standards for benefits, marketing practices, compensation arrangements, reporting practices, and claims payments.*

The Commissioner shall adopt ~~rules, pursuant to G.S. 150B-13,~~ rules to establish minimum standards for benefits, marketing practices, compensation arrangements, reporting practices, and claims payments under policies."

Sec. 39. G.S. 58-55-30(k) reads as rewritten:

"(k) The Commissioner shall adopt ~~rules, pursuant to G.S. 150B-13,~~ rules to establish minimum standards for marketing practices and compensation arrangements for long-term care insurance."

Sec. 40. G.S. 58-57-107 is recodified as G.S. 58-3-147.

Sec. 41. G.S. 58-27-5(b) reads as rewritten:

"(b) Any person or entity violating the provisions ~~of Articles 1 through 64~~ of this ~~Chapter~~ section shall be guilty of a misdemeanor and subject to a fine of not more than five thousand dollars ($5,000), or imprisonment for not more than six months, or both, in the discretion of the court."

Sec. 42. G.S. 58-48-42 reads as rewritten:

"§ *58-48-42. Procedure for appeal to Commissioner from decision of Association.*

In any hearing called by the Commissioner for an appeal made pursuant to ~~G.S. 58-48-40(7),~~ G.S. 58-48-40(c)(7) no later than 20 days before the hearing the appellant shall file with the Commissioner or the Commissioner's designated hearing officer and shall serve on the appellee a written statement of the appellant's case and any evidence the appellant intends to offer at the hearing. No later than five days before the hearing, the appellee shall file with the Commissioner or the Commissioner's designated hearing officer and shall serve on the appellant a written statement of the appellee's case and any evidence the appellee intends to offer at the hearing. Each hearing shall be recorded and transcribed. The cost of the recording and transcribing shall be borne equally by the appellant and the appellee. However, upon any final adjudication the prevailing party shall be reimbursed for that party's share of the costs by the other party. Each party shall, on a date determined by the Commissioner or the Commissioner's designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or the Commissioner's designated hearing officer and serve on the other party, a proposed order. The Commissioner or the Commissioner's designated hearing officer shall then issue an order."

Sec. 43. G.S. 58-7-170(c), as amended by House Bill 622 of the 1993 General Assembly, reads as rewritten:

"(c) The cost of investments made by insurers in mortgage loans, authorized by G.S. 58-7-179, with any one person shall not exceed the lesser of five percent (5%) of the insurer's admitted assets or ten percent (10%) of the insurer's capital and surplus. An insurer shall not invest in additional mortgage loans ~~with that person~~ without the Commissioner's consent if the admitted value of all mortgage loans held by the insurer exceeds an aggregate of sixty percent (60%) of the admitted assets of the insurer, if (i) the admitted value of all mortgage pass-through securities permitted by G.S. 58-7-173(17) does not exceed twenty-five percent (25%) of the admitted assets of the insurer and (ii) the admitted value of other mortgage loans permitted by G.S. 58-7-179 does not exceed forty percent (40%) of the admitted assets of the insurer.

An insurer that, as of October 1, ~~1991,~~ 1993, has mortgage investments ~~with any one person~~ that exceed the aggregate limitation specified in this subsection shall submit to the Commissioner no later than January 31, ~~1992,~~ 1994, a plan to bring the amount of mortgage investments with that person into compliance with the limitations by January 1, 2001."

Sec. 44. G.S. 58-7-173(17), as amended by House Bill 622 of the 1993 General Assembly, reads as rewritten:

"(17) Mortgage pass-through securities and derivatives thereof, that have been rated as investment grade by the Securities Valuation Office of the NAIC ~~and considered by the Federal Financial Institutions Examination Council or its successor to be nonhigh risk mortgage securities,~~ including, without limitation, collateral mortgage obligations backed by a pool of mortgages of the kind, class, and investment quality as those eligible for investment under G.S. 58-7-179."

Sec. 45. G.S. 58-23-26(c), as enacted by House Bill 622 of the 1993 General Assembly, reads as rewritten:

"(c) Each pool is subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, ~~58-3-70,~~ 58-3-71, 58-3-75, ~~58-3-80,~~ 58-3-81, 58-3-105, 58-6-5, 58-7-21, 58-7-26, 58-7-30, ~~58-7-32,~~ 58-7-31, 58-7-50, 58-7-55, 58-7-140, 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, 58-7-175, 58-7-177, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, ~~58-7-190,~~ 58-7-192, 58-7-193, 58-7-195, 58-7-197, 58-7-200, and Articles 13, 19, and 34 of this Chapter. Annual financial statements required by G.S. 58-2-165 shall be filed by each pool within 60 days after the end of the pool's fiscal year, subject to extension by the Commissioner."

Sec. 46. G.S. 58-57-105(b), as enacted by House Bill 665 of the 1993 General Assembly, reads as rewritten:

"(b) If credit life insurance premiums are charged through a credit card facility or if credit life insurance premiums are payable on the then outstanding balances on revolving charge account contracts defined in G.S. 25A-11, a premium not exceeding seventy-four cents (74¢) per one thousand dollars ($1,000) of insured indebtedness per month is authorized. The premium rate for joint credit life insurance may not exceed one and two-thirds (1 2/3) the permitted single credit life insurance premium rate."

Sec. 47. G.S. 58-1-25(a) reads as rewritten:

"(a) This section applies to all motor vehicle service agreement companies soliciting business in this State, but it ~~shall~~ does not apply to ~~the usual performance guarantees or warranties offered at no charge~~ performance guarantees, warranties, or motor vehicle service agreements made by ~~manufacturers~~

(1) A manufacturer,

(2) A distributor, or

(3) A subsidiary or affiliate of a manufacturer or a distributor, where fifty-one percent (51%) or more of the subsidiary or affiliate is owned directly or indirectly by

a. The manufacturer,

b. The distributor, or

c. The common owner of fifty-one percent (51%) or more of the manufacturer or distributor

in connection with the sale of ~~new~~ motor vehicles. This section does not apply to any motor vehicle dealer licensed to do business in this State (i) whose primary business is the retail sale and service of motor vehicles; (ii) who makes and administers its own service agreements with or without association with ~~any other entity;~~ a third-party administrator or who makes its own service agreements in association with a manufacturer, distributor, or their subsidiaries or affiliates; ~~or~~ and (iii) whose service agreements cover only vehicles sold by the dealer to its retail ~~customer.~~ customer; provided that the dealer complies with G.S. 58-1-35. A motor vehicle dealer who sells a motor vehicle service agreement to a consumer, as defined in 15 U.S.C. § 2301(3), shall not be deemed to have made a written warranty to the consumer with respect to the motor vehicle sold or to have entered into a service contract with the consumer that applies to the motor vehicle, as provided in 15 U.S.C. § 2308(a), if: (i) the motor vehicle dealer acts as a mere agent of a third party in selling the motor vehicle service agreement; and (ii) the motor vehicle dealer would, after the sale of the motor vehicle service agreement, have no further obligation under the motor vehicle service agreement to the

consumer to service or repair the vehicle sold to the consumer at or within 90 days before the dealer sold the motor vehicle service agreement to the consumer."

Sec. 48. G.S. 58-1-25(b) reads as rewritten:

"(b) The following definitions apply in this ~~section:~~ section and in G.S. 58-1-30 through G.S. 58-1-50:

(1) Authorized insurer. -- An insurance company authorized to write liability insurance under Articles 7, 16, 21, or 22 of this Chapter.

(2) Distributor. -- Defined in G.S. 20-286(3).

(3) Licensed insurer. -- An insurance company licensed to write liability insurance under Article 7 or 16 of this Chapter.

(4) Motor vehicle. -- Defined in G.S. 20-4.01(23), but also including mopeds as defined in G.S. 20-4.01(27)d1.

~~(1)~~(5) Motor vehicle service agreement. -- Any contract or agreement indemnifying the motor vehicle service agreement holder against loss caused by failure, arising out of the ownership, operation, or use of a motor vehicle, of a mechanical or other component part of the motor vehicle that is listed in the agreement. The term does not mean a contract or agreement guaranteeing the performance of parts or lubricants manufactured by the guarantor and sold for use in connection with a motor vehicle where no additional consideration is paid or given to the guarantor for the contract or agreement beyond the price of the parts or lubricants.

~~(2)~~(6) Motor vehicle service agreement company. -- Any person that issues motor vehicle service agreements and that is not a licensed insurer."

Sec. 49. G.S. 58-1-30(a) reads as rewritten:

"(a) This section applies to all home appliance service agreement companies soliciting business in this State, but it ~~shall~~ does not apply to ~~the usual~~ performance guarantees or warranties ~~offered at no charge~~ made by manufacturers in connection with the sale of new home appliances. This section does not apply to any home appliance dealer licensed to do business in this State (i) whose primary business is the retail sale and service of home appliances; (ii) who makes and administers its own service agreements without association with any other entity; ~~or~~ and (iii) whose service agreements cover only appliances sold by the dealer to its retail ~~customers,~~ customers, provided that the dealer complies with G.S. 58-1-35. This section does not apply to any warranty made by a builder or seller of real property relating to home appliances that are sold along with real

property. This section does not apply to any issuer of credit cards or charge cards that markets home appliance service agreements as an ancillary part of its business; provided, however, that such issuer maintains contractual liability insurance in accordance with G.S. 58-1-35(k)."

Sec. 50. G.S. 58-1-35(j) reads as rewritten:

"(j) Any person who knowingly offers for sale or sells a service agreement for a company that has failed to comply with the provisions of this section is guilty of a misdemeanor. All service agreement companies and individuals selling service agreements are subject to ~~Article 63 of this Chapter and~~ G.S. 75-1 through G.S. 75-19. ~~It is unlawful for any person to operate, maintain, or establish a service agreement company unless the company has a valid registration issued by the Commissioner. Any service agreement company operating in this State without a valid registration is an unauthorized insurer.~~"

Sec. 51. G.S. 58-1-35(k) reads as rewritten:

"(k) Each service agreement company shall maintain contractual liability insurance with ~~a licensed~~ an authorized insurer for one hundred percent (100%) of claims exposure, including reported and incurred but not reported claims and claims expenses, on business written in this State. The Commissioner may adopt rules governing the terms and conditions of policy forms for the insurance required by this subsection."

Sec. 52. Section 5 of Chapter 1014 of the 1991 Session Laws (1992 Regular Session) reads as rewritten:

"Sec. 5. This act becomes effective January 1, 1993, and applies to service agreements written to become effective on or after that ~~date.~~ date; provided, however, that service agreement companies have until January 1, 1995, to comply with the provisions of G.S. 58-1-25(c) through (g), 58-1-30(c) through (g), 58-1-35(g), 58-1-40, 58-1-41, 58-1-45, and 58-1-50."

Sec. 53. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 611 **CHAPTER 505**

AN ACT TO PROVIDE THE SAME CONFIDENTIALITY OF PERSONNEL RECORDS OF WATER AND SEWER AUTHORITIES AS ARE PROVIDED THOSE OF CITIES, COUNTIES, AND OTHER UNITS OF LOCAL GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"*§ 162A-6.1. Privacy of employee personnel records.*

(a) Notwithstanding the provisions of G.S. 132-6 or any other law concerning access to public records, personnel files of employees, former employees, or applicants for employment maintained by an authority are subject to inspection and may be disclosed only as provided by this section. For purposes of this section, an employee's personnel file consists of any information in any form gathered by the authority with respect to that employee and, by way of illustration but not limitation, relating to his application, selection or nonselection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, 'employee' includes former employees of the authority.

(b) The following information with respect to each authority employee is a matter of public record: name; age; date of original employment or appointment to the service; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. The authority shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the authority may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in an authority employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

(1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.

(2) A licensed physician designated in writing by the employee may examine the employee's medical record.

(3) An authority employee having supervisory authority over the employee may examine all material in the employee's personnel file.

(4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.

(5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

(6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

(7) The chief administrative officer, with concurrence of the authority, may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of an authority employee and the reasons for that personnel action. Before releasing the information, the chief administrative officer or authority shall determine in writing that the release is essential to maintaining public confidence in the administration of authority services or to maintaining the level and quality of authority services. This written determination shall be retained in the office of the chief administrative officer or the secretary of the authority, and is a record available for public inspection and shall become part of the employee's personnel file.

(c1) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

(1) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the authority's service, when disclosure would

compromise the objectivity or the fairness of the testing or examination process.

(2) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.

(3) Information that might identify an undercover law enforcement officer or a law enforcement informer.

(4) Notes, preliminary drafts, and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(c2) The authority may permit access, subject to limitations it may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that that person will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the authority as long as each personnel file examined is retained.

(d) An authority that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee, who objects to material in his file on grounds that it is inaccurate or misleading, may seek to have the material removed from the file or may place in the file a statement relating to the material.

(e) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a misdemeanor and upon conviction shall be fined an amount not more than five hundred dollars ($500.00).

(f) Any person not specifically authorized by this section to have access to a personnel file designated as confidential, who shall:

(1) Knowingly and willfully examine in its official filing place; or

(2) Remove or copy

any portion of a confidential personnel file shall be guilty of a misdemeanor and, upon conviction, shall be fined in the discretion of the court, but not in excess of five hundred dollars ($500.00)."

Sec. 2. This act becomes effective October 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 622 **CHAPTER 506**

AN ACT TO MAKE MISCELLANEOUS AMENDMENTS TO LAWS GOVERNING HEALTH INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-3-150(b) reads as rewritten:

"(b) ~~As~~ With respect to group and blanket accident and health ~~insurance and~~ insurance, group life ~~insurance~~ insurance, and group annuity policies issued and delivered to a trust or to an association outside of this State and covering persons resident in this State, the group certificates to be delivered or issued for delivery in this State shall be filed with and approved by the Commissioner pursuant to subsection (a) of this section."

Sec. 2. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-3-170. Requirements for maternity coverage.*

(a) Every entity providing a health benefit plan that provides maternity coverage in this State shall provide benefits for the necessary care and treatment related to maternity that are no less favorable than benefits for physical illness generally.

(b) As used in this section, 'health benefit plans' means accident and health insurance policies or certificates; nonprofit hospital or medical service corporation contracts; health, hospital, or medical service corporation plan contracts; health maintenance organization (HMO) subscriber contracts; and plans provided by a MEWA or plans provided by other benefit arrangements, to the extent permitted by ERISA."

Sec. 3. G.S. 58-58-145 reads as rewritten:

"*§ 58-58-145. Group annuity contracts defined; requirements.*

Any policy or contract, except a joint, reversionary or survivorship annuity contract, whereby annuities are payable ~~dependent upon the continuation of the lives of~~ to more than one person, ~~shall be deemed~~ is a group annuity contract. The person, firm or corporation to whom or to which such contract is issued, as herein provided, ~~shall be deemed~~ is the holder of ~~such~~ the contract. The term 'annuitant' ~~as used herein, refers to~~ means any person ~~upon whose continued life such annuity is dependent,~~ to whom or which payments are made under the group annuity contract. No authorized insurer shall deliver or issue for delivery in this State any group annuity contract except upon a group of annuitants ~~which~~ that conforms to the following: under a contract issued to an employer, or to the trustee of a fund established by an employer or two or more employers in the same industry or kind of business, the stipulated payments on which shall

be paid by the holder of such contract either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the employees covered by such contract, and providing a plan of retirement annuities under a plan which permits all of the employees of such employer or of any specified class or classes thereof to become annuitants. Any such group of employees may include retired employees, and may include officers and managers as employees, and may include the employees of subsidiary or affiliated corporations of a corporation employer, and may include the individual proprietors, partners and employees of affiliated individuals and firms controlled by the holders through stock ownership, contract or otherwise."

Sec. 4. G.S. 58-51-15(a) reads as rewritten:

"(a) Required Provisions. -- Except as provided in subsection (c) of this section each such policy delivered or issued for delivery to any person in this State shall contain the provisions specified in this subsection in the substance of the words that appear in this section. Such provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

(1) A provision in the substance of the following language:

ENTIRE CONTRACT; CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or waive any of its provisions.

(2) A provision in the substance of the following language:

TIME LIMIT ON CERTAIN DEFENSES:

a. After two years from the date of issue or reinstatement of this policy no misstatements except fraudulent misstatements made by the applicant in the application for such policy shall be used to void the policy or deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

The foregoing policy provisions may be used in its entirety only in major or catastrophe hospitalization policies and major medical policies each affording benefits of five thousand dollars ($5,000) or more for any one sickness or injury. Disability income policies affording benefits of one hundred dollars ($100.00) or

more per month for not less than 12 months and franchise policies. Other policies to which this section applies must delete the words 'except fraudulent misstatements.'

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of G.S. 58-51-15(b), (1), (2), (3), (4) and (5) in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium:

1. Until at least age 50 or,
2. In the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provisions (from which the clause in parentheses may be omitted at the insurer's option) under the caption 'INCONTESTABLE.'

After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.)

b. No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

(3) A provision in the substance of the following language:

GRACE PERIOD: A grace period of ..... (insert a number not less than '7' for weekly premium policies, '10' for monthly premium policies and '31' for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

(A policy which contains a cancellation provision may add, at the end of the above provision, subject to the right of the insurer to cancel in accordance with the cancellation provision hereof.

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision,

Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the record of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.)

(4) A provision in the substance of the following language:

REINSTATEMENT: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer, or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than 10 days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement.

(The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:

a. Until at least age 50 or,
b. In the case of a policy issued after age 44, for at least five years from its date of issue.)

(5) A provision in the substance of the following language:

NOTICE OF CLAIM: Written notice of claim must be given to the insurer within 20 days after the occurrence or

commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at ..... (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

(In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.)

(6) A provision in the substance of the following language:

CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

(7) A provision in the substance of the following language:

PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the

time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

(8) A provision in the substance of the following language:

TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which this policy provides any period payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid ..... (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

(9) A provision in the substance of the following language:

PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

(The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $..... (insert an amount which shall not exceed ~~one~~ three thousand dollars ~~($1,000)~~ ($3,000)), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities

provided by this policy on account of hospital, nursing, medical, or surgical services, may at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.)

(10) A provision in the substance of the following language:

PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

(11) A provision in the substance of the following language:

LEGAL ACTIONS: No action at law or in equity shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

(12) A provision in the substance of the following language:

CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)"

Sec. 4.1. Article 51 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-51-58. Coverage of certain prescribed drugs for cancer treatment.*

(a) No policy or contract of accident or health insurance, and no preferred provider contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55, that is issued, renewed, or amended on or after January 1, 1994, and that provides coverage for prescribed drugs approved by the federal Food and Drug Administration for the treatment of certain types of cancer shall exclude coverage of any drug on the basis that the drug has been prescribed for the treatment of a type of cancer for which the drug has

not been approved by the federal Food and Drug Administration. The drug, however, must be approved by the federal Food and Drug Administration and must have been proven effective and accepted for the treatment of the specific type of cancer for which the drug has been prescribed in any one of the following established reference compendia:

(1) The American Medical Association Drug Evaluations;

(2) The American Hospital Formulary Service Drug Information; or

(3) The United States Pharmacopeia Drug Information.

(b) Notwithstanding subsection (a) of this section, coverage shall not be required for any experimental or investigational drugs or any drug that the federal Food and Drug Administration has determined to be contraindicated for treatment of the specific type of cancer for which the drug has been prescribed.

(c) This section shall apply only to cancer drugs and nothing in this section shall be construed, expressly or by implication, to create, impair, alter, limit, notify, enlarge, abrogate, or prohibit reimbursement for drugs used in the treatment of any other disease or condition."

Sec. 4.2. Article 65 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-65-93. Coverage of certain prescribed drugs for cancer treatment.*

(a) No insurance certificate or subscriber contract under any hospital service plan or medical service plan governed by this Article and Article 66 of this Chapter, and no preferred provider contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55, that is issued, renewed, or amended on or after January 1, 1994, and that provides coverage for prescribed drugs approved by the federal Food and Drug Administration for the treatment of certain types of cancer shall exclude coverage of any drug on the basis that the drug has been prescribed for the treatment of a type of cancer for which the drug has not been approved by the federal Food and Drug Administration. The drug, however, must be approved by the federal Food and Drug Administration and must have been proven effective and accepted for the treatment of the specific type of cancer for which the drug has been prescribed in any one of the following established reference compendia:

(1) The American Medical Association Drug Evaluations;

(2) The American Hospital Formulary Service Drug Information; or

(3) The United States Pharmacopeia Drug Information.

(b) Notwithstanding subsection (a) of this section, coverage shall not be required for any experimental or investigational drugs or any

drug that the federal Food and Drug Administration has determined to be contraindicated for treatment of the specific type of cancer for which the drug has been prescribed.

(c) This section shall apply only to cancer drugs and nothing in this section shall be construed, expressly or by implication, to create, impair, alter, limit, notify, enlarge, abrogate, or prohibit reimbursement for drugs used in the treatment of any other disease or condition."

Sec. 4.3. Article 67 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-67-77. Coverage of certain prescribed drugs for cancer treatment.*

(a) No health care plan written by a health maintenance organization and in force, issued, renewed, or amended on or after January 1, 1994, and that provides coverage for prescribed drugs approved by the federal Food and Drug Administration for the treatment of certain types of cancer shall exclude coverage of any drug on the basis that the drug has been prescribed for the treatment of a type of cancer for which the drug has not been approved by the federal Food and Drug Administration. The drug, however, must be approved by the federal Food and Drug Administration and must have been proven effective and accepted for the treatment of the specific type of cancer for which the drug has been prescribed in any one of the following established reference compendia:

(1) The American Medical Association Drug Evaluations;

(2) The American Hospital Formulary Service Drug Information; or

(3) The United States Pharmacopeia Drug Information.

(b) Notwithstanding subsection (a) of this section, coverage shall not be required for any experimental or investigational drugs or any drug that the federal Food and Drug Administration has determined to be contraindicated for treatment of the specific type of cancer for which the drug has been prescribed.

(c) This section shall apply only to cancer drugs and nothing in this section shall be construed, expressly or by implication, to create, impair, alter, limit, notify, enlarge, abrogate, or prohibit reimbursement for drugs used in the treatment of any other disease or condition."

Sec. 4.4. Article 50 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-50-156. Coverage of certain prescribed drugs for cancer treatment.*

(a) Notwithstanding G.S. 58-50-125(c), if the standard health plan developed and approved under G.S. 58-50-125 provides coverage for prescribed drugs approved by the federal Food and Drug

Administration for the treatment of certain types of cancer, then coverage may not be excluded for any drug on the basis that the drug has been prescribed for the treatment of a type of cancer for which the drug has not been approved by the federal Food and Drug Administration. Coverage for such drugs shall be as required under G.S. 58-51-58."

Sec. 5. This act becomes effective October 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 659 **CHAPTER 507**

AN ACT TO PROVIDE THAT DEPOSITS ON RETURNABLE AERONAUTIC REPLACEMENT PARTS WILL BE TREATED THE SAME WAY AS DEPOSITS ON RETURNABLE AUTOMOTIVE, INDUSTRIAL, MARINE, AND FARM REPLACEMENT PARTS FOR SALES TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.3(16) reads as rewritten:

"(16) Except as provided in paragraph f., 'sales price' means the total amount for which tangible personal property is sold including charges for any services that go into the fabrication, manufacture or delivery of such tangible personal property and that are a part of the sale valued in money whether paid in money or otherwise and includes any amount for which credit is given to the purchaser by the seller without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest charged, losses or any other expenses whatsoever. Provided, however, that where a manufacturer, producer or contractor erects, installs or affixes tangible personal property upon real property pursuant to a construction or performance-type contract with or for the benefit of the owner of such real property, the sales price shall be the cost of such property to the manufacturer, producer or contractor performing the contract. Provided, further:

a. The cost for labor or services rendered in erecting, installing or applying property sold when separately charged shall not be included as a part of the 'sales price';

b. Finance charges, service charges or interest from credit extended under conditional sales contracts or

other conditional contracts providing for deferred payments of the purchase price shall not be considered a part of the 'sales price' when separately charged;

c. 'Sales price' shall not include the amount of any tax imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or consumer except that any manufacturers' or importers' excise tax shall be included in the term.

d. 'Sales price' shall not include any amounts charged as deposits on beverage containers which are returnable to vendors for reuse and which amounts are refundable or creditable to vendees, whether or not said deposits are separately charged.

e. 'Sales price' shall not include amounts charged as deposits on aeronautic, automotive, industrial, marine and farm replacement parts which are returnable to vendors for rebuilding or remanufacturing and which amounts are refundable or creditable to vendees, whether or not such deposits are separately charged. This subsection shall not be construed to include tires and batteries.

f. The sales price of tangible personal property sold through a coin-operated vending machine, other than closed-container soft drinks subject to excise tax under Article 2B of this Chapter or tobacco products, is considered to be fifty percent (50%) of the total amount for which the property is sold in the vending machine."

Sec. 2. This act becomes effective August 1, 1993, and applies to sales made on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 790 **CHAPTER 508**

AN ACT TO INCREASE THE AMOUNT OF ALCOHOLIC BEVERAGES A PERSON MAY PURCHASE AND POSSESS WITHOUT A PERMIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-301(b) reads as rewritten:

"(b) Possession on Other Property. -- It shall be lawful, without an ABC permit, for a person to possess for his personal use and the use of his guests not more than ~~five~~ eight liters of fortified wine or

spirituous liquor, or ~~five~~ eight liters of the two combined, at the following places:

(1) The residence of any other person with that person's consent;

(2) Any other property not primarily used for commercial purposes and not open to the public at the time the alcoholic beverage is possessed, if the owner or other person in charge of the property consents to that possession and consumption;

(3) An establishment with a brown-bagging permit as defined in G.S. 18B-1001(7)."

Sec. 2. G.S. 18B-303(a) reads as rewritten:

"(a) Purchases Allowed. -- Without a permit, a person may purchase at one time:

(1) Not more than 80 liters of malt beverages, other than draft malt beverages in kegs;

(2) Any amount of draft malt beverages in kegs;

(3) Not more than 20 liters of unfortified wine;

(4) Not more than ~~five~~ eight liters of either fortified wine or spirituous liquor, or ~~five~~ eight liters of the two combined."

Sec. 3. G.S. 18B-304(b) reads as rewritten:

"(b) *Prima Facie* Evidence. -- Possession of the following amounts of alcoholic beverages, without a permit authorizing that possession, shall be *prima facie* evidence that the possessor is possessing those alcoholic beverages for sale:

(1) More than 80 liters of malt beverages, other than draft malt beverages in kegs;

(2) More than ~~five~~ eight liters of spirituous liquor; or

(3) Any amount of nontaxpaid alcoholic beverages."

Sec. 4. G.S. 18B-401(b) reads as rewritten:

"(b) Taxis. -- It shall be unlawful for a person operating a for-hire passenger vehicle as defined in G.S. 20-4.01(27)b, to transport fortified wine or spirituous liquor unless the vehicle is transporting a paying passenger who owns the alcoholic beverage being transported. Not more than ~~five~~ eight liters of fortified wine or spirituous liquor, or combination of the two, may be transported by each passenger. A violation of this subsection shall not be grounds for suspension of the driver's license for illegal transportation of intoxicating liquors under G.S. 20-16(a)(8)."

Sec. 5. G.S. 18B-1001 reads as rewritten:

"*§ 18B-1001. Kinds of ABC permits; places eligible.*

When the issuance of the permit is lawful in the jurisdiction in which the premises is located, the Commission may issue the following kinds of permits:

(1) On-Premises Malt Beverage Permit. -- An on-premises malt beverage permit authorizes the retail sale of malt beverages for consumption on the premises and the retail sale of malt beverages in the manufacturer's original container for consumption off the premises. The permit may be issued for any of the following:
a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Food businesses;
e. Retail businesses;
f. Private clubs;
g. Convention centers;
h. Community theatres.
The permit may also be issued to certain breweries as authorized by G.S. 18B-1104(7).

(2) Off-Premises Malt Beverage Permit. -- An off-premises malt beverage permit authorizes the retail sale of malt beverages in the manufacturer's original container for consumption off the premises. The permit may be issued for any of the following:
a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Food businesses;
e. Retail businesses.

(3) On-Premises Unfortified Wine Permit. -- An on-premises unfortified wine permit authorizes the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. The permit may be issued for any of the following:
a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Private clubs;
e. Convention centers;
f. Cooking schools;
g. Community theatres[;]
h. Winery.

(4) Off-Premises Unfortified Wine Permit. -- An off-premises unfortified wine permit authorizes the retail sale of unfortified wine in the manufacturer's original container

for consumption off the premises. The permit may be issued for retail businesses. The permit may also be issued for a winery for sale of its own unfortified wine.

(5) On-Premises Fortified Wine Permit. -- An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit may be issued for any of the following:
   a. Restaurants;
   b. Hotels;
   c. Private clubs;
   d. Community theatres[;]
   e. Wineries;
   f. Convention centers.

(6) Off-Premises Fortified Wine Permit. -- An off-premises fortified wine permit shall authorize the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine.

(7) Brown-Bagging Permit. -- A brown-bagging permit authorizes each individual patron of an establishment, with the permission of the permittee, to bring up to ~~five~~ eight liters of fortified wine or spirituous liquor, or ~~five~~ eight liters of the two combined, onto the premises and to consume those alcoholic beverages on the premises. The permit may be issued for any of the following:
   a. Restaurants;
   b. Hotels;
   c. Private clubs;
   d. Community theaters;
   e. Congressionally-chartered veterans organizations.

(8) Special Occasion Permit. -- A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of the business and to serve the same to his guests. The permit may be issued for any of the following:
   a. Restaurants;
   b. Hotels;
   c. Eating establishments;
   d. Private clubs;

e. Convention centers.

(9) Limited Special Occasion Permit. -- A limited special occasion permit authorizes the permittee to bring fortified wine and spirituous liquor onto the premises of a business, with the permission of the owner of that property, and to serve those alcoholic beverages to the permittee's guests at a reception, party, or other special occasion being held there. The permit may be issued to any individual other than the owner or possessor of the premises. An applicant for a limited special occasion permit shall have the written permission of the owner or possessor of the property on which the special occasion is to be held.

(10) Mixed Beverages Permit. -- A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee to obtain a purchase-transportation permit under G.S. 18B-403 and 18B-404, and to use for culinary purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Private clubs;
d. Convention centers;
e. Community theatres;
f. Nonprofit and political organizations.

(11) Culinary Permit. -- A culinary permit authorizes a permittee to possess up to 12 liters of either fortified wine or spirituous liquor, or 12 liters of the two combined, in the kitchen of a business and to use those alcoholic beverages for culinary purposes. The permit may be issued for either of the following:

a. Restaurants;
b. Hotels.
c. Cooking schools.

A culinary permit may also be issued to a catering service to allow the possession of the amount of fortified wine and spirituous liquor stated above at the business location of that service and at the cooking site. The permit shall also authorize the caterer to transport those alcoholic beverages to and from the business location and the cooking site, and use them in cooking.

(12) Mixed Beverages Catering Permit. -- A mixed beverages catering permit authorizes a hotel or a restaurant that has a

mixed beverages permit to bring spirituous liquor onto the premises where the hotel or restaurant is catering food for an event and to serve the liquor to guests at the event.

(13) Guest Room Cabinet Permit. -- A guest room cabinet permit authorizes a hotel having a mixed beverages permit to sell to its room guests, from securely locked cabinets, malt beverages, unfortified wine, fortified wine, and spirituous liquor. A permittee shall designate and maintain at least ten percent (10%) of the permittee's guest rooms as rooms that do not have a guest room cabinet. A permittee may dispense alcoholic beverages from a guest room cabinet only in accordance with written policies and procedures filed with and approved by the Commission. A permittee shall provide a reasonable number of vending machines, coolers, or similar machines on premises for the sale of soft drinks to hotel guests.

A guest room cabinet permit may be issued for any of the following:

a. A hotel located in a county subject to G.S. 18B-600(f).
b. A hotel located in a county that has a population in excess of 150,000 by the last federal census."

Sec. 6. G.S. 18B-1006(b) reads as rewritten:

"(b) Lockers at Clubs. -- A private club or congressionally chartered veterans organization which has been issued a brown-bagging permit may, but is not required to, provide lockers for its members to store their alcoholic beverages. If lockers are provided, however, they shall not be shared but shall be for individual members. Each locker and each bottle of alcoholic beverages on the premises shall be labelled with the name of the member to whom it belongs. No more than ~~five~~ eight liters each of malt beverages or unfortified wine may be stored by a member at one time. No more than ~~five~~ eight liters of either fortified wine or spirituous liquor, or ~~five~~ eight liters of the two combined, may be stored by a member at one time."

Sec 7. G.S. 18B-1115(a) reads as rewritten:

"(a) Permit Required. -- Unless a person holds a permit which otherwise allows him to transport more than 80 liters of malt beverages other than draft malt beverages in kegs, 20 liters of unfortified wine, or ~~five~~ eight liters of fortified wine or spirituous liquor, or is a retailer authorized to transport alcoholic beverages under G.S. 18B-405, each person transporting alcoholic beverages in excess of those quantities shall have the permit described in this section."

Sec. 8. This act becomes effective July 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 989 **CHAPTER 509**

AN ACT TO REQUIRE EMPLOYERS TO GRANT LEAVE AT A MUTUALLY AGREED UPON TIME TO EMPLOYEES FOR INVOLVEMENT AT THEIR CHILDREN'S SCHOOLS, TO ENCOURAGE SCHOOLS TO IMPLEMENT PARENT INVOLVEMENT AND CONFLICT RESOLUTION PROGRAMS, AND TO DIRECT LOCAL BOARDS OF EDUCATION TO REEVALUATE THEIR SCHOOL SAFETY POLICIES IN LIGHT OF 1993 LEGISLATION.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 95 of the General Statutes is amended by adding a new section to read:

"*§ 95-28.3. Leave for parent involvement in schools.*

(a) It is the belief of the General Assembly that parent involvement is an essential component of school success and positive student outcomes. Therefore, employers shall grant four hours per year leave to any employee who is a parent, guardian, or person standing **in loco parentis** of a school-aged child so that the employee may attend or otherwise be involved at that child's school. However, any leave under this section is subject to the following conditions:

(1) The leave shall be at a mutually agreed upon time between the employer and the employee.

(2) The employer may require an employee to provide the employer with a written request for the leave at least 48 hours before the time desired for the leave.

(3) The employer may require that the employee furnish written verification from the child's school that the employee attended or was otherwise involved at that school during the time of the leave.

For the purpose of this section, 'school' means any (i) public school, (ii) private church school, church of religious charter, or nonpublic school described in Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes that regularly provides a course of grade school instruction, (iii) preschool, and (iv) child day care facility as defined in G.S. 110-86(3).

(b) Employers shall not discharge, demote, or otherwise take an adverse employment action against an employee who requests or takes leave under this section. Nothing in this section shall require an employer to pay an employee for leave taken under this section.

(c) An employee who is demoted or discharged or who has had an adverse employment action taken against him or her in violation of this section may bring a civil action within one year from the date of the alleged violation against the employer who violates this section and obtain either of the following:

(1) Any wages or benefits lost as a result of the violation; or

(2) An order of reinstatement without loss of position, seniority, wages, or benefits.

The burden of proof shall be upon the employee."

Sec. 2. Beginning with the 1994-95 school year, a school is encouraged to include a comprehensive parent involvement program as part of its building-level plan under G.S. 115C-238.3. The State Board of Education shall develop a list of recommended strategies that it determines to be effective, which building level committees may use to establish parent involvement programs designed to meet the specific needs of their schools. The Board shall make the list available to local school administrative units and school buildings by the beginning of the 1994-95 school year.

Sec. 3. Beginning with the 1994-95 school year, a school is encouraged to review its need for a comprehensive conflict resolution program as part of the development of its building-level plan under G.S. 115C-238.3. If a school determines that this program is needed, it may select from the list developed by the State Board of Education under G.S. 115C-81(a4) or may develop its own materials and curricula to be approved by the local board of education.

Sec. 4. Local boards of education shall, no later than December 1, 1993, reevaluate and update their policies related to school safety so they reflect changes authorized by the 1993 General Assembly. In particular, boards shall ensure they have clear policies governing the conduct of students, which state the consequences of violent or assaultive behavior, possessions of weapons, and criminal acts committed on school property or at school-sponsored functions. The State Board shall develop guidelines to assist local boards in this process.

Sec. 5. Section 1 of this act becomes effective December 1, 1993, and applies to acts committed on or after that date. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 1021 **CHAPTER 510**

AN ACT TO PROVIDE THAT THE COST OF EMERGENCY MEDICAL SERVICES FOR AN INMATE IN A LOCAL

CONFINEMENT FACILITY SHALL BE PAID BY A THIRD-PARTY INSURER IF THE INMATE HAS SUCH INSURANCE AND TO CLARIFY THAT THE COUNTY MAY RECOVER THE COST OF EMERGENCY MEDICAL SERVICES FROM THE INMATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-224(b) reads as rewritten:

"(b) In a medical emergency, the custodial personnel shall secure emergency medical care from a licensed physician according to the unit's plan for medical care. If a physician designated in the plan is not available, the personnel shall secure medical services from any licensed physician who is available. The unit operating the facility shall pay the cost of emergency medical ~~services.~~ services unless the inmate has third-party insurance, in which case the third-party insurer shall be the initial payor and the medical provider shall bill the third-party insurer. The county shall only be liable for costs not reimbursed by the third-party insurer, in which event the county may recover from the inmate the cost of the non-reimbursed medical services."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 1165 **CHAPTER 511**

AN ACT TO REVISE THE METHOD BY WHICH RESIDENT INSPECTORS ARE ASSIGNED, AND TO PROVIDE THAT CERTAIN FACILITIES THAT BURN HAZARDOUS WASTE AS A FUEL ARE SUBJECT TO THE RESIDENT INSPECTORS PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-295.02 reads as rewritten:

"§ *130A-295.02. Resident inspectors required at commercial hazardous waste facilities; recovery of costs for same.*

(a) The Division shall employ full-time resident inspectors for each commercial hazardous waste facility located within the State. Such inspectors shall be employed and assigned so that at least one inspector is on duty at all times during which any component of the facility is in operation, is undergoing any maintenance or repair, or is undergoing any test or calibration. Resident inspectors shall be assigned to commercial hazardous waste management facilities so as to protect the public health and the environment, to monitor all aspects of

the operation of such facilities, and to assure compliance with all laws and rules administered by the Division and by any other division of the Department. Such inspectors may also enforce laws or rules administered by any other agency of the State pursuant to an appropriate memorandum of agreement entered into by the Secretary and the chief administrative officer of such agency. The Division may assign additional resident inspectors to a facility depending upon the quantity and toxicity of waste managed at a facility, diversity of types of waste managed at the facility, complexity of management technologies utilized at the facility, the range of components which are included at the facility, operating history of the facility, and other factors relative to the need for on-site inspection and enforcement capabilities. The Division, in consultation with other divisions of the Department, shall define the duties of each resident inspector and shall determine whether additional resident inspectors are needed at a particular facility to meet the purposes of this section.

(b) The Division shall establish requirements pertaining to education, experience, and training for resident inspectors so as to assure that such inspectors are fully qualified to serve the purposes of this section. The Division shall provide its resident inspectors with such training, equipment, facilities, and supplies as may be necessary to fulfill the purposes of this section.

(c) As a condition of its permit, the owner or operator of each commercial hazardous waste facility located within the State shall provide and maintain such appropriate and secure offices and laboratory facilities as the Department may require for the use of the resident inspectors required by this section.

(d) Resident inspectors assigned to a commercial hazardous waste facility shall have unrestricted access to all operational areas of such facility at all times. For the protection of resident inspectors and the public, the provisions of G.S. 143-215.107(f) shall not apply to commercial hazardous waste facilities to which a resident inspector is assigned.

(e) No commercial hazardous waste facility shall be operated, undergo any maintenance or repair, or undergo any testing or calibration unless an inspector employed by the Division is present at the facility.

(f) The requirements of this section are intended to enhance the ability of the Department to protect the public health and the environment by providing the Department with the authority and resources necessary to maintain a rigorous inspection and enforcement program at commercial hazardous waste management facilities. The requirements of this section are intended to be supplementary to other requirements imposed on hazardous waste facilities. This section shall

not be construed to relieve either the owner or the operator of any such facility or the Department from any other requirement of law or to require any unnecessary duplication of reporting or monitoring requirements.

(g) For the purpose of enforcing the laws and rules enacted or adopted for the protection of the public health and the environment, resident inspectors employed pursuant to this section may be commissioned as special peace officers as provided in G.S. 113-28.1. The provisions of Article 1A of Chapter 113 of the General Statutes shall apply to resident inspectors commissioned as special peace officers pursuant to this subsection.

(h) The Department shall determine the full cost of the employment and assignment of resident inspectors at each commercial hazardous waste facility located within the State. Such costs shall include, but are not limited to, costs incurred for salaries, benefits, travel, training, equipment, supplies, telecommunication and data transmission, offices and other facilities other than those provided by the owner or operator, and administrative expenses. The Department shall establish and revise as necessary a schedule of fees to be assessed on the users of each such facility to recover the actual cost of the resident inspector program at that facility. The operator of each such facility shall serve as the collection agent for such fees, shall account to the Department on a monthly basis for all fees collected, and shall deposit with the Department all funds collected pursuant to this section within 15 days following the last day of the month in which such fees are collected. Fees collected under this section shall be credited to the General Fund as nontax revenue.

(i) ~~A resident inspector shall be assigned to a commercial hazardous waste facility for a maximum of 12 consecutive months or 18 months in a 24-month period. A resident inspector who has been assigned to a commercial hazardous waste facility for the maximum period allowed by this subsection shall not be reassigned to that facility within 12 months of the time he was previously assigned to that facility. For purposes of this subsection, 'commercial hazardous waste facility' means that facility and any other commercial hazardous facility which is operated by the same business entity or by a parent, subsidiary, or affiliate of that business entity. As used in this subsection, the words 'affiliate,' 'parent,' and 'subsidiary' have the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1990 Edition).~~ The Division shall establish and revise as necessary a program for assigning resident inspectors to commercial hazardous waste facilities so that scheduled rotation or equivalent oversight procedures ensure that each resident inspector will maintain objectivity.

(j) For purposes of this subsection, special purpose commercial hazardous waste facilities include: a facility that manages limited quantities of hazardous waste; a facility that limits its hazardous waste management activities to reclamation or recycling, including energy or materials recovery or a facility that stores hazardous waste primarily for use at such facilities; or a facility that is determined to be low risk under rules adopted by the Commission pursuant to this subsection. The Commission shall adopt rules establishing reasonable times and frequencies for the presence of a resident inspector on less than a full-time basis at special purpose commercial hazardous waste facilities. Rules adopted pursuant to this subsection shall establish classifications of special purpose hazardous waste facilities based on factors including, but not limited to, the size of the facility, the type of treatment or storage being performed, the nature and volume of waste being treated or stored, the uniformity, similarity, or lack of diversity of the waste streams, the predictability of the nature of the waste streams and their treatability, whether the facility utilizes automated monitoring or safety devices that adequately perform functions that would otherwise be performed by a resident inspector, the fact that reclamation or recycling is being performed at the facility, and the compliance history of the facility and its operator. Special purpose commercial hazardous waste facilities shall be subject to inspection at all times during which the facility is in operation, undergoing any maintenance or repair, or undergoing any test or calibration. Rules adopted pursuant to this subsection shall specify a minimum number of inspections during such times as the facility is subject to inspection. ~~Commercial~~ Special purpose commercial hazardous waste facilities that utilize hazardous waste as a fuel source shall be inspected a minimum of 40 hours per week. The Department shall maintain records of all inspections at special purpose commercial hazardous waste facilities. Such records shall contain sufficient detail and shall be arranged in a readily understandable format so as to facilitate determination at any time as to whether the special purpose commercial hazardous waste facility is in compliance with the requirements of this subsection and of rules adopted pursuant to this subsection.

(k) For purposes of this section, a facility that utilizes hazardous waste as a fuel or that has used hazardous waste as a fuel within the preceding calendar year, and that is an affiliate of and adjacent or contiguous to a commercial hazardous waste facility, shall be subject to inspection as a special purpose commercial hazardous waste facility under subsection (j) of this section as if the facility that utilizes hazardous waste as a fuel were a part of the commercial hazardous waste facility.

(l) As used in this section, the words 'affiliate', 'parent', and 'subsidiary' have the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1990 Edition)."

Sec. 2. This act becomes effective June 30, 1993, except the change made to G.S. 130A-295.02(h), which becomes effective July 1, 1994.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 124 **CHAPTER 512**

AN ACT TO ESTABLISH A STATEWIDE PROGRAM TO IMPROVE THE COLLECTION OF ACCOUNTS RECEIVABLE BY THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 147 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 6B.

"Statewide Accounts Receivable Program.

"§ *147-86.20. Definitions.*

The following definitions apply in this Article:

(1) Account Receivable. -- An asset of the State reflecting a debt that is owed to the State and has not been received by the State agency servicing the debt. The term includes claims, damages, fees, fines, forfeitures, loans, overpayments, and tuition as well as penalties, interest, and other costs authorized by law. The term does not include court costs or fees assessed in actions before the General Court of Justice or counsel fees and other expenses of representing indigents under Article 36 of Chapter 7A of the General Statutes.

(2) Debtor. -- A person who owes an account receivable.

(3) Past Due. -- An account receivable is past due if the State has not received payment of it by the payment due date.

(4) Person. -- An individual, a fiduciary, a firm, a partnership, an association, a corporation, a unit of government, or another group acting as a unit.

(5) State Agency. -- Defined in G.S. 147-64.4(4). The term does not include, however, a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, or the General Court of Justice.

(6) Write-off. -- To remove an account receivable from a State agency's accounts receivable records.

"*§ 147-86.21. State agencies to collect accounts receivable in accordance with statewide policies.*

A State agency to which an account receivable is owed is responsible for collecting the account receivable. In fulfilling this responsibility, a State agency shall establish internal policies and procedures for the management and collection of accounts receivable and shall submit its internal policies and procedures to the State Controller for review.

The State Controller shall examine the policies and procedures submitted by a State agency to determine whether they are consistent with statewide policies and procedures adopted by the State Controller. The statewide policies and procedures shall ensure that a State agency takes all cost-effective and appropriate actions to collect accounts receivable owed to it. If the State Controller determines that a State agency's policies and procedures are not consistent with the statewide policies and procedures, the State Controller shall discuss the inconsistencies with the State agency to determine whether special circumstances, such as a requirement of federal law, justify the inconsistencies. If the State Controller, after consulting with the Office of the Attorney General, finds that no special circumstances justify the inconsistencies, the State Controller shall notify the State agency and the State agency shall conform its policies and procedures to the statewide policies and procedures. If the State Controller finds that special circumstances justify the inconsistencies, the State agency's internal policies and procedures shall reflect the special circumstances.

"*§ 147-86.22. Statewide accounts receivable program.*

(a) Program. -- The State Controller shall implement a statewide accounts receivable program. As part of this program, the State Controller shall do all of the following:

(1) Monitor the State's accounts receivable collection efforts.

(2) Coordinate information, systems, and procedures between State agencies to maximize the collection of past-due accounts receivable.

(3) Adopt policies and procedures for the management and collection of accounts receivable by State agencies.

(4) Establish procedures for writing off accounts receivable and for determining when to end efforts to collect accounts receivable after they have been written off.

(b) Credit Card Payment. -- The State Controller may establish policies that allow accounts receivable to be payable under certain conditions, with the concurrence of the State Treasurer, by credit card. A condition of payment by credit card is receipt by the appropriate State agency of the full amount of the account receivable

owed to the State agency. A debtor who pays by credit card shall be required to include an amount equal to any fee charged by a depository financial institution for processing the credit card payment. A payment of an account receivable that is made by credit card and is not honored by the issuer of the credit card does not relieve the debtor of the obligation to pay the account receivable.

(c) Collection Techniques. -- The State Controller, in conjunction with the Office of the Attorney General, shall establish policies and procedures to govern techniques for collection of accounts receivable. These techniques may include use of credit reporting bureaus, judicial remedies authorized by law, and administrative setoff by a reduction of an individual's tax refund pursuant to the Setoff Debt Collection Act, Chapter 105A of the General Statutes, or a reduction of another payment, other than payroll, due from the State to a person to reduce or eliminate an account receivable that the person owes the State.

"*§ 147-86.23. Interest and penalties.*

A State agency shall charge interest at the rate established pursuant to G.S. 105-241.1(i) on a past-due account receivable from the date the account receivable was due until it is paid. A State agency shall add to a past-due account receivable a late payment penalty of no more than ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty for good cause shown. If another statute requires the payment of interest or a penalty on a past-due account receivable, this section does not apply to that past-due account receivable.

"*§ 147-86.24. Debtor information and skip tracing.*

A State agency shall collect from clients and debtors minimum identifying information as prescribed by the State Controller. A State agency shall use all available debtor information to skip trace debtors as prescribed by the State Controller.

The State Controller shall establish procedures to give the State Controller access to information that is in the custody of a State agency and could assist another State agency in the collection of accounts receivable owed to that State agency. A State agency that has this information shall cooperate with the State Controller in giving the State Controller access to the information. If the information is contained in an electronic database, the State agency shall provide the State Controller on-line electronic access upon request. A State agency is not required to give the State Controller access to information when a State or federal law prohibits the disclosure of the information.

"*§ 147-86.25. Setoff debt collection.*

The State Controller shall implement a statewide setoff debt collection program to provide for collection of accounts receivable that

have been written off. The statewide program shall supplement the Setoff Debt Collection Act, Chapter 105A of the General Statutes, and shall provide for written-off accounts receivable to be set off against payments the State owes to debtors, other than payments of individual income tax refunds and payroll.

A program shall provide that, before final setoff can occur, the State agency servicing the debt must notify the debtor of the proposed setoff and of the debtor's right to contest the setoff through an administrative hearing and judicial review. A proposed setoff by a State agency that is a 'claimant agency' under Chapter 105A of the General Statutes shall be conducted in accordance with the procedures the State agency must follow under that Chapter. A proposed setoff by a State agency that is not a 'claimant agency' under Chapter 105A of the General Statutes shall be conducted under Articles 3 and 4 of Chapter 150B of the General Statutes.

"*§ 147-86.26. Reporting requirements.*

A State agency shall provide the State Controller a complete report of the agency's accounts receivable at least quarterly or more frequently as required by the State Controller. The State Controller shall use the information provided by a State agency and any additional information available to compile a summary report of the agency. The State Controller shall provide copies of these summary reports annually to the Governor, the Joint Legislative Commission on Governmental Operations, and each State agency. Each summary report shall include the following:

(1) The type of accounts receivable owed to the State agency.
(2) An aging of the accounts receivable.
(3) Any attempted collection activity and any costs incurred in the collection process.
(4) Any accounts receivable that have been written off.
(5) Information required by subdivisions (1) through (4) for the previous three years.
(6) Identification of a State agency that is not complying with this Article or Chapter 105A of the General Statutes.
(7) Any additional information the State Controller considers useful.

"*§ 147-86.27. Rules.*

A State agency may adopt rules to implement this Article."

Sec. 2. G.S. 143B-426.39 is amended by adding a new subdivision to read:

"(9a) Implement a statewide accounts receivable program in accordance with Article 6B of Chapter 147 of the General Statutes."

Sec. 3. G.S. 96-4(t)(1) reads as rewritten:

"(l) Confidentiality of Information Contained in Records and Reports. -- (i) Except as hereinafter otherwise provided, it shall be unlawful for any person to obtain, disclose, or use, or to authorize or permit the use of any information which is obtained from any employing unit or individual pursuant to the administration of this Chapter. (ii) Any claimant or employer or their legal representatives shall be supplied with information from the records of the Employment Security Commission to the extent necessary for the proper presentation of claims or defenses in any proceeding under this Chapter. Notwithstanding any other provision of law, any claimant may be supplied, subject to restrictions as the Commission may by regulation prescribe, with any information contained in his payment record or on his most recent monetary determination, and any individual, as well as any interested employer, may be supplied with information as to the individual's potential benefit rights from claim records. (iii) Subject to restrictions as the Commission may by regulation provide, information from the records of the Employment Security Commission may be made available to any agency or public official for any purpose for which disclosure is required by statute or regulation. (iv) The Commission may, in its sole discretion, permit the use of information in its possession by public officials in the performance of their public duties. (v) The Commission shall release the payment and the amount of unemployment compensation benefits upon receipt of a subpoena in a proceeding involving child support. (vi) The Commission shall furnish to the State Controller any information the State Controller needs to prepare and publish a comprehensive annual financial report of the ~~State.~~ State or to track debtors of the State."

Sec. 4. G.S. 105A-3 is amended by adding a new subsection to read:

"(d) A claimant agency must register with the Department and report annually to the Department the amount of debts owed to the agency for which the agency did not submit a claim for setoff and the reason for not submitting the claim."

Sec. 5. G.S. 147-86.27, as enacted by Section 1 of this act, becomes effective July 1, 1994. The remainder of this act becomes effective July 1, 1993. The interest and penalties authorized by G.S. 147-86.23, as enacted by Section 1 of this act, apply to debts incurred on or after July 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 179 **CHAPTER 513**

AN ACT TO DELETE THE REQUIREMENT THAT CERTAIN REPORTS ON ENVIRONMENTAL ISSUES BE MADE TO THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS, TO SET A DATE BY WHICH LOCAL GOVERNMENTS SHALL SUBMIT LOCAL WATER SUPPLY PLANS, AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS LAWS RELATING TO ENVIRONMENT, HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-309.12(c) reads as rewritten:

"(c) The Department shall report ~~on an annual basis beginning 1 September 1992 to the Joint Legislative Commission on Governmental Operations and to~~ annually on or before 1 September to the Environmental Review Commission as to the condition of the Solid Waste Management Trust Fund and as to the use of all funds allocated from the Solid Waste Management Trust Fund."

Sec. 2. (a) Section 2 of Chapter 1082 of the 1989 Session Laws, as rewritten by Section 1 of Chapter 20 of the 1991 Session Laws and Section 8 of Chapter 990 of the 1991 Session Laws, is repealed.

(b) G.S. 130A-295.02(k) is amended by adding a new subsection to read:

"(k) The Department shall report annually on or before 1 September to the Environmental Review Commission on the implementation of the resident inspectors program."

Sec. 3. G.S. 74-54.1 reads as rewritten:

"*§ 74-54.1. Permit fees.*

(a) The Commission may establish a fee schedule for the processing of permit applications and permit renewals and modifications. The fees may vary on the basis of the acreage, size, and nature of the proposed or permitted operations or modifications. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance activities and safeguards to prevent unusual fee assessments that would impose a serious economic burden on an individual applicant or a class of applicants.

(b) The total amount of permit fees collected for any fiscal year may not exceed one-third of the total personnel and administrative costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance costs in the prior fiscal year. A fee for an application for a new permit may not exceed two thousand five hundred dollars ($2,500), and a fee for an application to renew or modify a permit may not exceed five hundred dollars ($500.00). Fees collected under this section shall be applied to the costs of administering this Article.

(c) The Department shall ~~make an annual~~ annually report on or before 1 September to the ~~Joint Legislative Commission on Governmental Operations and the Director of the Fiscal Research Division~~ Environmental Review Commission on the cost of ~~the State's mining permit program,~~ implementing this Article. The report shall include the fees established, collected, and disbursed under this section and any other information requested by the General Assembly or the Commission."

Sec. 4. Section 3 of Chapter 197 of the 1993 Session Laws reads as rewritten:

"Sec. 3. This act becomes effective 1 January ~~1~~, 1994. The Department of Administration and the Department of Transportation shall ~~prepare~~ make the first report to the Environmental Review Commission on or before 1 October ~~1~~, 1994."

Sec. 5. G.S. 106-769(a) reads as rewritten:

"(a) There is created the Genetic Engineering Review Board in the Department of Agriculture. The Board shall consist of 10 members as follows:

(1) The Secretary of Environment, Health, and Natural Resources or his designee;
(2) The ~~Secretary of Human Resources~~ State Health Director or his designee;
(3) The Commissioner of Agriculture or his designee;
(4) The President of the North Carolina Biotechnology Center or his designee;
(5) The Dean of the College of Agriculture and Life Sciences at North Carolina State University, or his designee, and the Dean of the School of Agriculture at North Carolina Agricultural and Technical State University, or his designee;
(6) The Dean of the School of Public Health of the University of North Carolina at Chapel Hill or his designee;
(7) A practicing farmer who is an active member of a farm organization, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives;

(8) A representative of a nonprofit public interest organization appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate; and

(9) A representative of the biotechnology industry appointed by the Governor."

Sec. 6. G.S. 130A-33 reads as rewritten:

"§ *130A-33. Commission for Health Services -- regular and special meetings.*

Each year there shall be four regular meetings of the Commission for Health Services, one of which shall be held ~~during the annual meeting and~~ conjointly with a general session of the annual meeting of the North Carolina Medical ~~Society at which time and place the annual report shall be submitted by the Secretary of Environment, Health, and Natural Resources or his designee.~~ Society. The State Health Director shall submit an annual report on public health at this meeting. The other three meetings shall be at such times and places as the chairman of the Commission shall designate. Special meetings of the Commission may be called by the chairman, or by a majority of the members of the Commission."

Sec. 7. (a) G.S. 143-355(l) reads as rewritten:

"(l) Each unit of local government that provides public water services or that plans to provide ~~such~~ public water service shall, either individually or together with other ~~such~~ units of local government, prepare a local water supply ~~plan.~~ and submit it to the Department. The Department shall provide technical assistance with the preparation of ~~such~~ plans to units of local government upon request and to the extent that the Department has resources available to provide ~~such~~ assistance. At a minimum, local units of government shall include in local water supply plans ~~such information as~~ all information that is readily available to them. However this subsection shall be construed to require the preparation of local water supply plans only to the extent that technical assistance is made available to units of local government from the Department. ~~Such plans~~ Plans shall include present and projected ~~population~~ population, industrial development, and water use within the service area, present and future water supplies, an estimate of ~~such~~ the technical assistance ~~as~~ that may be needed at the local level to address projected water needs, and ~~such~~ any other related information as the Department may require in the preparation of a State water supply plan. Local plans shall be revised to reflect changes in relevant data and projections at least once each five years unless the Department requests more frequent revisions. Local plans and revised plans shall be submitted to the Department once they have been approved by the unit(s) of local government."

(b) Each unit of local government that is required to submit a plan under G.S. 143-355(l) shall submit its plan to the Department on or before 1 January 1995.

Sec. 8. G.S. 74-24.4(c) reads as rewritten:

"(c) The ~~Division of Health Services of the Department of Environment, Health, and Natural Resources~~ State Health Director shall have primary responsibility for research and the recommendation of health standards to the Commissioner to effectuate the purposes of this Article, and nothing in this subsection shall affect the authority of the Commissioner with respect to the promulgation and enforcement of both safety and health standards."

Sec. 9. G.S. 110-91(2) reads as rewritten:

"(2) Health-Related Activities. -- Each child in a day-care facility shall receive nutritious food and refreshments under rules to be adopted by the Commission. After consultation with the ~~Division of Health Services of the Department of Environment, Health, and Natural Resources,~~ State Health Director, nutrition standards shall provide for specific requirements for infants. Nutrition standards shall provide for specific requirements for children older than infants, including a daily food plan for meals and snacks served that shall be adequate for good nutrition. The number and size of servings and snacks shall be appropriate for the ages of the children and shall be planned according to the number of hours the child is in care. Menus for meals and snacks shall be planned at least one week in advance, dated, and posted where they can be seen by parents.

Each day-care facility shall arrange for each child in care to be out-of-doors each day if weather conditions permit.

Each day-care facility shall have a rest period for each child in care after lunch or at some other appropriate time.

No day-care facility shall care for more than 25 children in one group. Facilities providing care for 26 or more children shall provide for two or more groups according to the ages of children and shall provide separate supervisory personnel for each group."

Sec. 10. G.S. 147-54.12(2) reads as rewritten:

"(2) 'Environmental license' means any certificate, permit, or other approval by whatever name called, pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the resources of land, air, or water, which is required to be obtained from a State agency or instrumentality, including,

but not limited to, any certificate, permit, or other approval by whatever name called, pertaining to a pollution control rule or standard established by the ~~Division of Health Services, Department of Human Resources or the Secretary of the Department of Human Resources.~~ Commission for Health Services."

Sec. 11. G.S. 105-164.13(38) reads as rewritten:

"(38) Food and other items lawfully purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51, and supplemental foods lawfully purchased with a food instrument issued under the Special Supplemental Food Program, 42 U.S.C. § ~~1786.~~ 1786, and supplemental foods purchased for direct distribution by the Special Supplemental Food Program."

Sec. 12. G.S. 130A-247, as amended by Section 1 of Chapter 262 of the 1993 Session Laws, reads as rewritten:

"§ 130A-247. *Definitions.*

The following definitions shall apply throughout this Part:

(1) 'Establishment' means ~~an establishment that prepares or serves drink, an establishment that prepares or serves food, or an establishment that provides lodging.~~ (i) an establishment that prepares or serves drink, (ii) an establishment that prepares or serves food, (iii) an establishment that provides lodging, or (iv) a bed and breakfast inn.

(1a) 'Permanent house guest' means a person who receives room or board for periods of a week or longer. The term includes visitors of the permanent house guest.

(2) 'Private club' means an ~~establishment~~ organization that maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Internal Revenue Code as defined in G.S. 105-130.2(1).

(3) 'Regular boarder' means a person who receives food for periods of a week or longer.

(4) 'Establishment that prepares or serves drink' means a business or other entity that puts together, portions, sets out, or hands out drinks in unpackaged portions using containers that are reused on the premises rather than single-service containers.

(5) 'Establishment that prepares or serves food' means a business or other entity that cooks, puts together, portions, sets out, or hands out food in unpackaged portions for human consumption.

(6) 'Bed and breakfast inn' means a business ~~establishment~~ of not more than 12 guest rooms that offers bed and breakfast accommodations to at least nine but not more than 23 persons per night for a period of less than one week, and that:

a. Does not serve food or drink to the general public for pay;

b. Serves only the breakfast meal, and that meal is served only to overnight guests of the ~~establishment;~~ business;

c. Includes the price of breakfast in the room rate; and

d. Is the permanent residence of the owner or the manager of the ~~establishment.~~ business."

Sec. 13. G.S. 130A-248(a), as amended by Section 2 of Chapter 262 of the 1993 Session Laws, reads as rewritten:

"(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of restaurants, school cafeterias, summer camps, food or drink stands, mobile food units, ~~pushcarts~~ pushcarts, and other establishments that prepare or serve food or drink for pay. However, any establishment that prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the definition of a private club as provided in G.S. 130A-247(2)."

Sec. 14. G.S. 130A-250, as amended by Section 4 of Chapter 262 of the 1993 Session Laws, reads as rewritten:

"§ 130A-250. *Exemptions.*

The following shall be exempt from this Part:

(1) ~~Lodging establishments~~ Establishments that provide lodging described in G.S. 130A-248(a1) with four or fewer lodging units;

(2) Condominiums;

(3) Establishments that prepare or serve food or provide lodging to regular boarders or permanent house guests only;

(4) Private homes that occasionally offer lodging accommodations, which may include the providing of food, for two weeks or less to persons attending special events, provided these homes are not bed and breakfast homes or bed and breakfast inns;

(5) Private clubs;

(6) Curb markets operated by the State Agricultural Extension Service;

(7) Establishments that prepare or serve food or drink for pay no more frequently than once a month for a period not to exceed two consecutive days; and

(8) Establishments that put together, portion, set out, or hand out only drinks using single service containers that are not reused on the premises."

Sec. 15. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 218 **CHAPTER 514**

AN ACT TO PROVIDE FOR THE REGULATION OF THE PRACTICE OF COUNSELING AND THE LICENSURE OF COUNSELORS.

The General Assembly of North Carolina enacts:

Section 1. Article 24 of Chapter 90 of the General Statutes reads as rewritten:

"ARTICLE 24.

"~~Registered Practicing.~~ Licensed Professional Counselors Act.

"§ *90-329. Declaration of policy.*

It is declared to be the public policy of this State that the activities of persons ~~using the title 'Registered Practicing Counselor'~~ who render counseling services to the public be regulated to insure the protection of the public health, ~~safety~~ safety, and welfare.

"§ *90-330. Definitions; ~~practice of law;~~ practice of marriage and family therapy.*

(a) Definitions. -- As used in this Article certain terms are defined as follows:

~~(1) A 'counselor' is a person engaged in the practice of counseling who is not a Registered Practicing Counselor as defined in this Article.~~

(1a) The 'Board' means the Board of Licensed Professional Counselors.

(2) A ~~'Registered Practicing Counselor'~~ 'licensed professional counselor' is a person engaged in the practice of counseling who holds a ~~certificate~~ license as a ~~Registered Practicing Counselor~~ licensed professional counselor issued ~~to him~~ under the provisions of this Article.

(3) The 'practice of counseling' means holding oneself out to the public as a ~~practicing~~ professional counselor offering

counseling services ~~which~~ that include, but are not limited ~~to~~ to, the following:

a. Counseling. -- Assisting ~~an individual,~~ individuals, groups, and families through the counseling relationship, using a combination of clinical mental health and human development principles, methods, diagnostic procedures, treatment plans, and other psychotherapeutic techniques, to develop an understanding of personal problems, to define ~~goals~~ goals, and to plan action reflecting ~~his or her~~ the client's interests, abilities, aptitudes, and mental health needs as these are related to ~~personal-social~~ personal-social-emotional concerns, ~~education progress~~ educational progress, and occupations and careers.

b. Appraisal Activities. -- Administering and interpreting tests for assessment of personal characteristics.

c. Consulting. -- Interpreting scientific data and providing guidance and personnel services to individuals, ~~groups~~ groups, or organizations.

d. Referral Activities. -- Identifying problems requiring referral to other specialists.

e. Research Activities. -- Designing, ~~conducting~~ conducting, and interpreting research with human subjects.

(4) A 'supervisor' means any licensed professional counselor or, when one is inaccessible, an equivalently credentialed mental health professional, as determined by the Board, with a minimum of five years of counseling experience who meets the qualifications established by the Board.

~~(b) Practice of Law. Nothing in this Article shall be construed as authorizing Registered Practicing Counselors to engage in the practice of law, and such person shall not engage in the practice of law unless duly licensed so to do.~~

(c) Practice of Marriage and Family Therapy, ~~Psychology~~ Psychology, or Social Work. -- No person ~~hereafter registered~~ licensed as a ~~Practicing Counselor~~ licensed professional counselor under the provisions of this Article shall be allowed to hold himself or herself out to the public as ~~having specialized training or experience as an expert or specializing in the field of~~ a ~~Marriage and Family Therapy, Psychology or Social Work~~ certified marriage and family therapist, licensed practicing psychologist, psychological associate, or certified clinical social worker unless specifically authorized by other provisions of law.

"§ 90-331. Unlawful use of title ~~'Registered Practicing Counselor.'~~ 'licensed professional counselor'.

~~It shall be unlawful for any person who has not received a certificate of qualification as a Registered Practicing Counselor to assume or use such a title, or to use any words or other means of identification indicating that the person has been certified as a Registered Practicing Counselor, but such person may use the term 'counselor' in connection with his name relating to his services as a counselor.~~ It shall be unlawful for any person who is not licensed under this Article to engage in the practice of counseling, use the title 'licensed professional counselor', use the letters 'LPC', use any facsimile or combination of these words or letters, abbreviations, or insignia, or indicate or imply orally, in writing, or in any other way that the person is a licensed professional counselor.

"§ 90-332. Use of title by firm.

It shall be unlawful for any firm, partnership, corporation, ~~association~~ association, or other business or professional entity to assume or use the title of ~~Registered Practicing Counselor,~~ licensed professional counselor unless each of the members of ~~such~~ the firm, ~~partnership~~ partnership, or association ~~first shall have received a certificate of qualification from~~ is licensed by the ~~State Board of Registered Practicing Counselors.~~ Board.

"§ 90-332.1. Exemptions from licensure.

(a) It is not the intent of this Article to regulate members of other regulated professions who do counseling in the normal course of the practice of their profession. Accordingly, this Article does not apply to:

(1) Lawyers licensed under Chapter 84, doctors licensed under Chapter 90, and any other person registered, certified, or licensed by the State to practice any other occupation or profession while rendering counseling services in the performance of the occupation or profession for which the person is registered, certified, or licensed.

(2) Any school counselor certified by the State Board of Education while counseling within the scope of employment by a board of education or private school.

(3) Any student intern or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution of higher learning or training institution, if the intern or trainee is a designated 'counselor intern' and the activities and services constitute a part of the supervised course of study.

(4) Any person counseling as a supervised counselor in a supervised professional practice under G.S. 90-336(b)(2).

(5) Any ordained minister or other member of the clergy while acting in a ministerial capacity who does not charge a fee for the service, or any person invited by a religious organization to conduct, lead, or provide counseling to its members when the service is not performed for more than 30 days a year.

(6) Any nonresident temporarily employed in this State to render counseling services for not more than 30 days in a year, if the person holds a license or certificate required for counselors in another state.

(7) Any person employed by State, federal, county, or municipal government while counseling within the scope of employment.

(8) Any person performing mental health counseling solely as an employee of an area facility, as defined in G.S. 122C-3(14)a., if both of the following apply:

a. The mental health services are provided by a qualified mental health professional who meets or exceeds the minimum educational qualifications for licensure as a licensed professional counselor under this Article.

b. The area facility has obtained written verification from the following boards that the employee has not had his or her license, registration, or certification revoked, rescinded, or suspended: the North Carolina Board of Licensed Professional Counselors, the North Carolina State Board of Examiners of Practicing Psychologists, the North Carolina Certification Board for Social Work, and the North Carolina Marital and Family Therapy Certification Board.

(b) Persons who claim to be exempt under subsection (a) of this section are prohibited from advertising or offering themselves as 'licensed professional counselors'.

(c) Persons licensed under this Article are exempt from rules pertaining to counseling adopted by other occupational licensing boards.

"§ 90-333. *North Carolina Board of ~~Registered Practicing~~ Licensed Professional Counselors; appointments; terms; composition.*

(a) For the purpose of carrying out the provisions of this Article, there is hereby created the North Carolina Board of ~~Registered Practicing~~ Licensed Professional Counselors which shall consist of seven members appointed by the Governor in the manner hereinafter prescribed. Any nationally recognized association representing professional counselors may submit recommendations to the Governor for Board membership. The Governor may remove any member of

the Board for neglect of duty or malfeasance or conviction of a felony or other crime of moral turpitude, but for no other reason.

(b) At least five members of the Board shall be ~~Registered Practicing Counselors~~ licensed professional counselors except that initial appointees shall be persons who meet the educational and experience requirements for ~~registration as Registered Practicing~~ licensure as licensed professional counselors under the provisions of this Article; and two members shall be ~~appointed from the public at large.~~ public-at-large members appointed from the general public. Composition of the Board as to the race and sex of its members shall reflect the composition of the population of the ~~State of North Carolina.~~ State and each member shall reside in a different congressional district.

(c) At all times the Board shall include at least ~~two counselors~~ one counselor primarily engaged in counselor education, at least one counselor primarily engaged in the public sector, ~~and~~ at least ~~two counselors~~ one counselor primarily engaged in the private ~~sector,~~ sector, and two licensed professional counselors at large.

(d) All members of the Board shall be residents of the State of North Carolina, ~~and after the establishment of the initial Board, all members,~~ and, with the exception of the ~~public members~~ public-at-large members, shall be ~~registered~~ licensed by the Board under the provisions of this Article. Professional members of the Board must be actively engaged in the practice of counseling or in the education and training of students in counseling, and have been for at least three years prior to their appointment to the Board. ~~Such~~ The engagement in this activity during the two years preceding the appointment shall have occurred primarily in this State.

(e) The term of office of each member of the Board shall be three years; provided, however, that of the members first appointed, three shall be appointed for terms of one year, two for terms of two years, and two for terms of three years. No member shall serve more than two consecutive three-year terms.

(f) Each term of service on the Board shall expire on the 30th day of June of the year in which the term expires. As the term of a member expires, the Governor shall make the appointment for a full term, or, if a vacancy occurs for any other reason, for the remainder of the unexpired term.

(g) Members of the Board shall receive compensation for their services and reimbursement for expenses incurred in the performance of duties required by this Article, at the rates prescribed in G.S. 93B-5.

(h) The Board may employ, subject to the provisions of Chapter 126 of the General Statutes, the necessary personnel for the

performance of its functions, and fix their compensation within the limits of funds available to the Board.

"§ *90-334. Functions and duties of the Board.*

(a) The Board shall administer and enforce the provisions of this Article.

(b) The Board shall elect from its membership, a chairperson, a vice-chairperson, and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Board meetings.

(c) The Board shall examine and pass on the qualifications of all applicants for ~~certificates~~ licenses under this Article, and shall issue a ~~certificate~~ license or renewal of license to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all ~~certificates~~ licenses issued by the Board.

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Article from the fees which it collects, but in no event shall expenditures exceed the revenues of the Board during any fiscal year. No State appropriations shall be subject to the administration of the Board.

(f) The Board shall establish and receive fees not to exceed ~~seventy-five dollars ($75.00)~~ one hundred dollars ($100.00) for initial or renewal application, not to exceed ~~seventy-five dollars ($75.00)~~ one hundred dollars ($100.00) for examination, and not to exceed ~~fifteen dollars ($15.00)~~ twenty-five dollars ($25.00) for late ~~renewal;~~ renewal, maintain Board accounts of all receipts, and make expenditures from Board receipts for any purpose which is reasonable and necessary for the proper performance of its duties under this Article.

(g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for ~~registration~~ licensure and ~~certificate~~ license renewal, including but not limited to the power to adopt or use examination materials and accreditation standards of any recognized counselor accrediting agency and the power to establish reasonable standards for continuing counselor ~~education; provided that for certificate renewal no examination shall be required.~~ education.

(h) Subject to the provisions of Chapter 150B of the General Statutes, the Board shall have the power to adopt, amend, or repeal rules ~~and regulations~~ to carry out the purposes of this Article, including but not limited to the power to adopt ethical and disciplinary standards.

(i) ~~The Board shall not adopt rules to regulate individuals who do not use the title 'Registered Practicing Counselor.'~~ The Board shall

establish the criteria for determining the qualifications constituting 'supervised professional practice'.

(j) The Board may examine counselor applicants, approve, issue, deny, revoke, suspend, and renew the licenses of counselor applicants and licensees under this Article, and conduct hearings in connection with these actions.

(k) The Board shall investigate, subpoena individuals and records, and take necessary appropriate action to properly discipline persons licensed under this Article and to enforce this Article.

"§ *90-335. Board general provisions.*

The Board shall be subject to the provisions of Chapter 93B of the General Statutes.

"§ *90-336. Title and qualifications for ~~registration~~ licensure.*

(a) Each person desiring to be ~~registered by the Board~~ a licensed professional counselor shall make application to the Board upon such forms and in such manner as the Board shall prescribe, together with the required application ~~fee established by the Board~~ fee.

(b) The Board shall issue a ~~certificate as 'Registered Practicing Counselor'~~ license as 'licensed professional counselor' to an applicant ~~who;~~ who meets all of the following criteria:

(1) Has earned one of the following:

a. A masters degree in counseling from a regionally accredited institution of higher education, which includes a minimum of 48 semester hours.

~~Holds a Master's degree from a college or university accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution, and~~

~~(2) Has a~~

b. A graduate degree in a related field ~~including a concentration in subject matter directly related to the practice of counseling as defined in G.S. 90-330(a)(3) or a degree~~ supplemented with courses that the Board determines to be substantially ~~equivalent, and~~ equivalent.

~~(3)~~(2) ~~Provides satisfactory evidence of the completion of two years' experience in the practice of counseling under the direct supervision of a Registered Practicing Counselor. A doctoral degree in counseling from an accredited college or university may be substituted for two years of experience.~~ Has had no less than two years of masters or post-masters counseling experience, or of both, in a professional setting,

including a minimum of 2,000 hours of supervised professional practice as defined by the Board.

(3) Has passed an examination as adopted by the Board.

"§ *90-337. Persons ~~certified~~ credentialed in other states.*

~~A counselor who holds a valid and unrevoked certificate as a Registered Practicing Counselor, or its equivalent, issued under authority of any state, or the District of Columbia, and who resides within the State of North Carolina, may perform work within the State; Provided, that he register with the State Board of Registered Practicing Counselors and comply with its rules regarding such registration. Such person may use the term 'Counselor' in connection with his name, but may not use the term 'Registered Practicing Counselor' without registering with the Board.~~ The Board may license any person who is currently licensed, certified, or registered by another state if the individual has met requirements determined by the Board to be substantially similar to or exceeding those established under this Article.

"§ *90-338. ~~Temporary exemption from academic qualifications.~~ Exemptions.*

Applicants holding certificates of registration as Registered Practicing Counselors and in good standing with the Board shall be issued licenses as licensed professional counselors without meeting the requirements of G.S. 90-336(b). ~~Applicants who were engaged in the practice of counseling before January 1, 1984,~~ The following applicants shall be exempt from the academic qualifications required by this Article for ~~Registered Practicing Counselors~~ licensed professional counselors and shall be ~~registered~~ licensed upon passing the Board examination and meeting the experience ~~requirements.~~ requirements:

(1) An applicant who was engaged in the practice of counseling before July 1, 1993.

(2) An applicant who holds a masters degree from a college or university accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution, provided the applicant was enrolled in the masters program prior to July 1, 1994.

"§ *90-339. Renewal of ~~certificates of registration.~~ licenses.*

(a) All ~~certificates of registration~~ licenses shall be effective upon the date of issuance by the Board, and shall expire on the second June 30 thereafter.

(b) All ~~certificates of registration~~ licenses issued hereunder shall be renewed at the times and in the manner provided by this section. At least 45 days prior to expiration of each ~~certificate of registration,~~

license, the Board shall mail a notice for ~~certificate~~ license renewal to the person ~~certified~~ licensed for the current ~~certification~~ licensure period. At least 10 days before the current ~~certificate~~ license expires, the applicant must return the notice properly completed, together with a renewal fee established by the ~~Board,~~ Board and evidence of continuing counselor education as approved by the Board, upon receipt of which the Board shall issue to the person to be ~~registered~~ licensed the renewed ~~certificate of registration~~ license for the period stated on the ~~said certificate.~~ license.

(c) Any person ~~certified~~ licensed who allows ~~his certificate~~ the license to lapse for failure to apply for renewal within 45 days after notice shall be subject to a the late renewal ~~fee as established herein.~~ fee. Failure to apply for renewal of a ~~certificate of registration~~ license within one year after the ~~certificate's~~ license's expiration date will require that a ~~certificate of registration~~ license be reissued only upon application as for an original ~~certificate.~~ license.

"§ *90-340. ~~Disciplinary procedures.~~ Protection of the public.*

The Board may, in accordance with the provisions of Chapter 150B of the General Statutes, refuse to grant or to renew, may suspend, or may revoke the ~~certificate~~ license of any person ~~certified~~ licensed under this Article on one or more of the following grounds:

(1) Conviction of a misdemeanor under this ~~Article; or~~ Article.
(2) Conviction of a felony under the laws of the United States or of any state of the United ~~States; or~~ States.
(3) Gross unprofessional conduct, dishonest practice or incompetence in the practice of ~~counseling; or~~ counseling.
(4) Procuring or attempting to procure a ~~certificate of registration~~ license by fraud, deceit, or ~~misrepresentation; or~~ misrepresentation.
(5) Any fraudulent or dishonest conduct in ~~counseling; or~~ counseling.
(6) Inability of the person to perform the functions for which a ~~certificate of registration~~ license has been issued due to impairment of mental or physical ~~faculties; or~~ faculties.
(7) Violations of any of the provisions of this Article or rules of the Board.
(8) Violations of the American Counseling Association Ethical Standards adopted by the Board.

"§ *90-341. Violation a misdemeanor.*

Any person violating any provision of this Article is guilty of a misdemeanor and, upon conviction thereof, may be punishable by fine, by imprisonment, or by both fine and imprisonment.

"§ *90-342. Injunction.*

As an additional remedy, the Board may proceed in a superior court to enjoin and restrain any person from violating the prohibitions of this Article. The Board shall not be required to post bond in connection with such proceeding.

"*§ 90-343. Disclosure.*

Any individual, or employer of an individual, who is licensed under this Article may not charge a client or receive remuneration for professional counseling services unless, prior to the performance of those services, the client is furnished a copy of a Professional Disclosure Statement that includes the licensee's professional credentials, the services offered, the fee schedule, and other provisions required by the Board.

"*§ 90-344. Third-party reimbursements.*

Nothing in this Article shall be construed to require direct third-party reimbursement to persons licensed under this Article."

Sec. 2. G.S. 8-53.8 reads as rewritten:

"*§ 8-53.8. Counselor privilege.*

No person, duly ~~registered~~ licensed pursuant to Chapter 90, Article 24, of the General Statutes, shall be required to disclose any information which he or she may have acquired in rendering professional counseling services, and which information was necessary to enable him or her to render professional counseling services: Provided, that the presiding judge of a superior or district court may compel such disclosure, if in the court's opinion the same is necessary to a proper administration of justice and such disclosure is not prohibited by other statute or regulation."

Sec. 3. G.S. 7A-551 reads as rewritten:

"*§ 7A-551. Privileges not grounds for excluding evidence.*

Neither the physician-patient privilege, the psychologist-client privilege, the licensed professional counselor-client privilege, nor the husband-wife privilege shall be grounds for excluding evidence of abuse or neglect in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's abuse or neglect is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as said privileges relate to the competency of the witness and to the exclusion of confidential communications."

Sec. 4. If any portion of this act is declared invalid or unconstitutional, that declaration shall not affect the validity and constitutionality of the remaining portions.

Sec. 5. This act becomes effective July 1, 1994, except that the Board's rule-making authority under this act is effective upon ratification of the act.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 297 **CHAPTER 515**

AN ACT TO REQUIRE AN ENDORSEMENT TO SELL FISH TAKEN FROM COASTAL FISHING WATERS, TO CONSOLIDATE THE VESSEL FISHING LICENSE, AND TO AMEND OTHER MARINE FISHERIES STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-152 reads as rewritten:

"*§ 113-152. ~~Licensing of~~ Consolidated license for vessels, equipment and operations; fees.*

(a) Consolidated Vessel License. -- In order to promote efficiency and cost-effectiveness, the Marine Fisheries Commission may adopt rules to authorize the Division to issue a consolidated vessel license. The fee for each individual license or endorsement issued through the consolidated license shall be paid when the application for the consolidated license is submitted.

(a1) Vessel License Requirements. -- The following vessels are subject to the vessel licensing requirements of this section:

(1) All vessels engaged in commercial fishing operations in coastal fishing waters;

(2) All North Carolina vessels engaged in commercial fishing operations without the State which result in landing ~~and selling~~ fish in North Carolina. North Carolina vessels are those which have their primary situs in North Carolina. Motorboats with North Carolina numbers under the provisions of Chapter 75A of the General Statutes are deemed to have their primary situs in North Carolina: documented vessels which list a North Carolina port as home port are deemed to have their primary situs in North Carolina; and

(3) All nonresident vessels engaged in commercial fishing operations within the ~~State or engaged in commercial fishing operations without the State that result in landing and selling fish in North Carolina.~~ State.

'Commercial fishing operations' are all operations preparatory to, during, and subsequent to the taking of fish:

(1) With the use of commercial fishing equipment; or

(2) By any means, if a primary purpose of the taking is to sell the fish.

Commercial fishing operations also ~~includes~~ include taking people fishing for hire.

It is unlawful for the owner of a vessel subject to licensing requirements to permit it to engage in commercial fishing operations

without having first procured the appropriate licenses including vessel, gear, or other license required by the Commission. It is unlawful for anyone to command such a vessel engaged in commercial fishing operations without complying with the provisions of this section and of rules made under the authority of this Article. It is unlawful for anyone to command such a vessel engaged in commercial fishing operations that does not meet the license requirements of this Article or of rules made under the authority of the Article, or without making reasonably certain that all persons on board are in compliance with the provisions of this Article and rules made under the authority of this Article. It is unlawful to participate in any commercial fishing operation in connection with which there is a vessel subject to licensing requirements not meeting the licensing requirements under the provisions of this Article or of rules made under the authority of this Article.

Nothing in this section shall require the licensing of any vessel used solely for oystering, scalloping, or clamming by a person not required to have an oyster, scallop, and clam license under the provisions of G.S. 113-154. Spears or gigs shall not be deemed commercial fishing equipment unless used in an operation the purpose of which is the taking of fish for commercial purposes.

(b) License Format/Consolidated License. -- Any license that may be required by this section is to be issued in the name of the owner of the vessel. The format of the license shall include the name of the owner of the vessel, date of birth, expiration date of the license, vessel identification, other license endorsements, and any other information the Division deems necessary to accomplish the purposes of this Subchapter. The license shall be issued on a card made of hard plastic or metal capable of being used to make imprints. It is unlawful for the individual or corporate owner of a licensed vessel or any persons with the authority to authorize the use of a licensed vessel to permit any individual who is not eligible to have the license issued to him in his own right to command such licensed vessel for the purpose of engaging in commercial fishing operations. It is unlawful for such an ineligible person to command a licensed vessel for such purposes. The license application for a menhaden vessel must state the name of the person in command of the vessel. Upon change in command of a menhaden vessel, the owner must notify the Secretary within 30 days. Upon change in ownership of any licensed vessel, the new owner must notify the Secretary within 30 days.

(b1) Replacement/Consolidated Vessel License. -- A replacement vessel license for a lost or destroyed license, including all endorsements, may be issued by the Marine Fisheries Commission upon receipt of a proper application together with a five dollar ($5.00)

fee. A replacement vessel license including all endorsements shall only be obtained from the Morehead City offices of the Division of Marine Fisheries. The Division shall not accept an application for a replacement license unless the Division determines that the applicant's current license has not been suspended or revoked. A copy of an application duly filed with the Division shall serve as the license until the replacement license has been received. The Marine Fisheries Commission may provide by rule for the replacement of lost, obliterated, destroyed, or otherwise illegible license plates or decals upon tender of the original license receipt or upon other evidence that the Marine Fisheries Commission deems sufficient. ~~The Department may charge a fee of fifty cents (50c) for replacement of a plate or decal.~~

(c) Vessel License Fees. -- Licenses are issued upon a fiscal year basis for vessels of various lengths (length measured straight through the cabin and along the deck, from end to end, excluding the sheer) and types as follows for the fees indicated:

(1) Vessels, without motors, regardless of length when used in connection with other licensed vessels, no license required.

(2) Vessels with or without motors not over 18 feet in length, one dollar ($1.00) per foot.

(3) Vessels with or without motors over 18 feet but not over 38 feet in length, one dollar and fifty cents ($1.50) per foot.

(4) Vessels with or without motors over 38 feet in length, three dollars ($3.00) per foot.

(4a) Vessels owned by persons who are not residents of North Carolina, two hundred dollars ($200.00) or an amount equal to the nonresident fee charged by the nonresident's state, whichever is greater, in addition to the fee requirement otherwise applicable under this ~~subsection or subsection (d),~~ section.

(5) Vessels engaged in menhaden fishing shall be taxed, based on tonnage, as prescribed in subsection (d).

(6) Vessels engaged in commercial fishing operations for which the Commission requires a gear or equipment license shall be subject to fees as prescribed in subsection (g).

(7) Vessels engaged in selling fish taken from coastal fishing waters shall be subject to the endorsement to sell fees as prescribed in subsection (h) of this section.

(d) Vessel Fees/Menhaden Fishing. -- Vessels engaging in menhaden fishing are subject to the following license and fee requirements:

(1) For the mother ship, two dollars ($2.00) per ton, gross tonnage, customhouse measurements.

(2) For each purse boat carrying a purse seine used in connection with a licensed mother ship, no license required.

(3) Repealed by Session Laws 1983, c. 570, s. 6.

(e) ~~All licenses in this Article issued during the period January 1, 1992, through June 30, 1992, are subject to fifty percent (50%) of the full license fee regardless of when issued and expire on June 30, 1992. Beginning July 1, 1992, all~~ All licenses in this Article expire on June 30 of each year and are subject to the full license fee regardless of when issued unless otherwise indicated.

Nonresidents obtaining licenses must certify that their conviction record in their state of residence is such that they would not be denied a license under the standards in G.S. 113-166. When a license application is denied for violations of fisheries laws, whether the violations occurred in North Carolina or another jurisdiction, the license fees shall not be refunded and shall be applied to the costs of processing the application.

(f) Oyster, Scallop, and Clam Exemption. -- No person exempt from the oyster, scallop, and clam license under the provisions of this Article may take more than:

(1) One bushel of oysters per person per day, not to exceed two bushels per vessel per day;

(2) One-half bushel of scallops per person per day, not to exceed one bushel per vessel; and

(3) One hundred clams per person per day, not to exceed two hundred per vessel per day.

(g) Gear or Equipment Licenses. -- Gear or equipment licenses shall be issued upon the payment of fees as prescribed by the Commission in its duly adopted rules at a rate to be established by the Commission between twenty-five dollars ($25.00) and five hundred dollars ($500.00) per license. The fee rate for gear or equipment licenses, at a minimum, shall be adequate to compensate the Department for the actual and administrative cost associated with the conservation and management of the fishery. Gear or equipment licenses may be required for commercial fishing operations that do not involve the use of a vessel.

(h) Endorsement to Sell. -- A vessel license may include an endorsement to sell fish taken from coastal fishing waters subject to the requirements of G.S. 113-154.1. A vessel license containing an endorsement to sell shall be capable of being used to make imprints of the sale or transaction. Fees for an endorsement to sell on a vessel license are as follows:

(1) Vessels with or without motors not over 18 feet in length, twenty-five dollars ($25.00).
(2) Vessels with or without motors over 18 feet but not over 38 feet in length, thirty-five dollars ($35.00).
(3) Vessels with or without motors over 38 feet in length, forty-five dollars ($45.00).

A fee for an endorsement to sell shall be in addition to any other vessel license fee established under this section."

Sec. 2. G.S. 113-153 reads as rewritten:

"*§ 113-153. Land or sell license; ~~Vessels~~ vessels fishing beyond territorial waters.*

(a) Persons aboard vessels not having their primary situs in North Carolina which are carrying a cargo of fish taken outside the waters of North Carolina may land ~~and~~ or sell their catch in North Carolina by ~~complying with the licensing provisions of G.S. 113-152~~ purchasing a land or sell license as set forth in this section with respect to the vessel in question. The Marine Fisheries Commission may by rule modify the land or sell licensing procedure ~~set out in G.S. 113-152~~ in order to devise an efficient and convenient procedure for licensing out-of-state vessels to only land, or after landing ~~in order~~ to permit sale of cargo.

(b) The fee for a land or sell license for a vessel owned by a person who is not a resident of North Carolina is two hundred dollars ($200.00), or an amount equal to the nonresident fee charged by the nonresident's state, whichever is greater. ~~Provided, that persons~~ Persons aboard vessels having a primary situs in a jurisdiction that would allow North Carolina vessels without restriction to land ~~and~~ or sell their catch, taken outside such jurisdiction, may land ~~and~~ or sell their catch in North Carolina without complying with this section if such persons are in possession of a valid license from their state of residence."

Sec. 3. Article 14 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"*§ 113-154.1. Endorsement to sell fish.*

(a) Requirements. -- Except as otherwise provided in this section, it is unlawful for any person who takes or lands any species of fish under the authority of the Marine Fisheries Commission from coastal fishing waters by any means whatever, including aquaculture operations, to sell, offer for sale, barter or exchange for merchandise such fish, without having first procured a current and valid endorsement to sell fish. It is unlawful for fish dealers to buy fish unless the seller presents a current and valid vessel license with an endorsement to sell, or a separate endorsement to sell if no vessel is involved, at the time of the transaction. Any subsequent sale of fish

shall be subject to the licensing requirements of fish dealers under G.S. 113-156.

(b) Fees. -- The annual fee for an endorsement to sell fish on a vessel license for a resident of this State is set forth in G.S. 113-152(h). The annual fee for an endorsement to sell fish when no vessel is involved for a resident of this State is fifteen dollars ($15.00) and for a nonresident of this State is one hundred dollars ($100.00) or an amount equal to the nonresident fee charged by the nonresident's state, whichever is greater. The license shall be valid for the period July 1 through June 30 of a given year.

(c) Non-Vessel Endorsement Format. -- The format of an endorsement when the applicant is not seeking a vessel license shall include the name of the applicant, date of birth, expiration date of the endorsement, and any other information the Division deems necessary to accomplish the purposes of this Subchapter. The endorsement shall be issued on a card made of hard plastic or metal capable of being used to make imprints of the sale or transaction. An applicant who is applying for an endorsement on a vessel license shall comply with G.S. 113-152.

(d) Application for Non-Vessel Endorsement. -- An application for issuance or renewal of an endorsement to sell shall be filed with the Morehead City offices of the Division of Marine Fisheries or license agents authorized to sell licenses under this Article. An application shall be accompanied by the fee established in subsection (b) of this section. Applications shall not be accepted from persons ineligible to hold a license issued by the Marine Fisheries Commission, including any applicant whose endorsement is suspended or revoked on the date of the application. The applicant shall be provided with a copy of the application marked received. The copy shall serve as the endorsement to sell, until the endorsement issued by the Division is received or the Division determines that the applicant is ineligible to hold an endorsement. In addition to the information required in subsection (c) of this section, the applicant shall disclose on the application a valid address, and such other information as the Division may require.

(e) Application for Replacement Non-Vessel Endorsement to Sell. -- A replacement endorsement shall only be obtained from the Morehead City offices of the Division of Marine Fisheries. The Division shall not accept an application for a replacement endorsement unless the Division determines that the applicant's current license has not been suspended or revoked. A copy of an application duly filed with the Division shall serve as the endorsement until the replacement license has been received.

(f) Sale of Fish. -- It is unlawful for any person licensed under this section to sell fish taken outside the territorial waters of North Carolina or to sell fish taken from coastal fishing waters except to:

(1) Fish dealers licensed under G.S. 113-156; or

(2) The public, if the seller is also licensed as a fish dealer under G.S. 113-156.

(g) Recordkeeping Requirements. -- The fish dealer shall record each transaction on a form provided by the Department. The transaction form shall include the information on the endorsement to sell of the seller, the quantity of the fish, the identity of the fish dealer, and such other information as the Division deems necessary to accomplish the purposes of this Subchapter. The person who records the transaction shall provide a completed copy of the transaction form to the Department, and to the other party of the transaction. The Department copy of each transaction from the preceding month shall be transmitted to the Department by the fish dealer on or before the tenth day of the following month.

(h) Non-Vessel Endorsement to Sell Nontransferable. -- An endorsement to sell fish issued under this section is nontransferable. It is unlawful to use an endorsement to sell issued to another person in the sale or attempted sale of fish or for a licensee to lend or transfer a license to sell with the following two exceptions: (i) an individual under the age of 16 may sell fish under the license of a relative or guardian; or (ii) a license may be transferred within a single fishing operation if the person to whom it is transferred is a U.S. citizen. It is unlawful for a licensee to lend or transfer a license to sell for the purpose of circumventing the requirements of this section.

(i) Penalties. -- Any person who violates any provision of this section or any rule by the Marine Fisheries Commission to implement this section is guilty of a misdemeanor.

(1) A violation of subsections (a), (f), or (h) or a rule of the Marine Fisheries Commission implementing any of those subsections is a misdemeanor punishable as follows:

a. For a first conviction, a fine of not less than fifty dollars ($50.00) or double the value of the fish which are the subject of the transaction, whichever is greater, not to exceed two hundred fifty dollars ($250.00), or imprisonment not to exceed 30 days.

b. For a second conviction within three years, a fine of not less than two hundred fifty dollars ($250.00) or double the value of the fish which are the subject of the transaction, whichever is greater, not to exceed five

hundred dollars ($500.00), or imprisonment not to exceed 90 days, or both.

c. For a third or subsequent conviction within three years, a fine of not less than five hundred dollars ($500.00) or double the value of the fish which are the subject of the transaction, whichever is greater, or imprisonment not to exceed six months, or both.

(2) A violation of any other provision of this section other than subsections (a), (f), or (h), or of any rule of the Marine Fisheries Commission other than a rule implementing subsections (a), (f), or (h) of this section, is punishable under G.S. 113-135(a).

(j) Use of Fees. -- Fees paid under G.S. 113-152(h) or G.S. 113-154.1 for an endorsement to sell fish shall be applied to the cost of a fisheries data information system that compiles fisheries data obtained from the endorsement program established by G.S. 113-152 and this section or to marine fisheries programs or research projects that enhance knowledge and use of marine and estuarine resources."

Sec. 4. G.S. 113-156 reads as rewritten:

"§ *113-156. Licenses for fish dealers.*

(a) License Requirement. -- Except as otherwise provided in this ~~Article, every person who sells fish or has any connection whatever with fish that results in his enrichment is a fish dealer, provided that individual employees of fish dealer's are not fish dealer's merely by virtue of transacting the business of their employers.~~ section, it is unlawful for any person involved in a fishing operation not licensed pursuant to this section:

(1) To buy fish for resale from any person involved in a coastal fishing operation that takes any species of fish under the authority of the Marine Fisheries Commission from coastal fishing waters. For purposes of this subdivision, a retailer who purchases fish from a fish dealer shall not be liable if the fish dealer has not complied with the licensing requirements of this section;

(2) To sell fish to the public subject to the licensing requirements of G.S. 113-153(b); or

(3) To sell to the public any species of fish under the authority of the Marine Fisheries Commission taken from coastal fishing waters by that coastal fishing operation.

Any person subject to the licensing requirements of this section is a fish dealer. Any person subject to the licensing requirements of this section shall obtain a separate license or set of licenses for each location conducting activities required to be licensed under this section.

(b) Exceptions to License Requirements. -- The Marine Fisheries Commission may make reasonable rules to implement this ~~section by clarifying the status of particular classes of persons as regards fish dealerships.~~ subsection including rules to clarify the status of the listed classes of exempted persons, require submission of statistical data, and require that records be kept in order to establish compliance with this section. Any person not licensed pursuant to this section is exempt from the licensing requirements of this section if all fish handled within any particular licensing category meet one or more of the following requirements:

~~Persons all of whose dealings with a category of fish fall under one or more of the following headings are not fish dealers as respects that category:~~

(1) ~~Persons~~ The fish are sold by persons whose dealings in fish are primarily educational, scientific, or ~~official. Scientific, educational, or official agencies~~ official, and who have been issued a permit by the Division that authorizes the educational, scientific, or official agency to ~~may~~ sell fish harvested or processed in connection with research or demonstration ~~projects~~ projects; ~~without being deemed dealers, but such sales are subject to such reasonable rules as the Marine Fisheries Commission may make governing such sales.~~

~~(2) Individuals selling legally acquired fish other than oysters and clams to individuals other than dealers on a casual, noncommercial basis, provided that such sales do not net in excess of five hundred dollars ($500.00) in cash or equivalent value in any 12-month period. Any public offer to sell, or peddling of fish, is deemed commercial.~~

~~(3) Fishermen who sell their catch exclusively to fish dealers licensed under this section if the fish taken by any fisherman meets one of the following requirements:~~

~~a. The fish were taken lawfully in coastal fishing waters other than through the use of a vessel licensed under G.S. 113-152, and the value of such fish sold does not exceed five hundred dollars ($500.00) in any 12-month period.~~

~~b. The fish were taken in a commercial fishing operation meeting all licensing requirements, and he was a party to the operation.~~

~~c. The fish were taken by him, whether by sports or commercial methods, through the use of a vessel currently and validly licensed under G.S. 113-152.~~

~~d. The fish were taken by him in inland fishing waters in conformity with the laws and rules administered by the Wildlife Resources Commission and are of a type permitted to be sold by the Wildlife Resources Commission.~~

~~e. The fish taken were oysters, scallops, or clams and the person satisfies the dealer that he took them or participated in the taking, that he then had a current and valid oyster, scallop, and clam license issued to him personally, and that they were taken lawfully.~~

~~(c) Every fish dealer is subject to the licensing requirements of this section unless all fish handled within any particular licensing category meet one or more of the following requirements:~~

(2) The fish are sold by individual employees of fish dealers when transacting the business of their duly licensed employer;

~~(1)~~ (3) The fish are shipped to ~~him~~ a person by a dealer from without the ~~State.~~ State;

~~(2) The fish are nongame fish taken in inland fishing waters.~~

~~(3)~~ (4) The fish are of a kind the sale of which is regulated exclusively by the Wildlife Resources ~~Commission.~~ Commission; or

~~(4)~~ (5) The fish are purchased from a licensed ~~dealer.~~ dealer.

~~In the event the seller is a licensed fish dealer, he must satisfy any purchasing fish dealer, whether licensed or unlicensed, that the fish were acquired in conformity with law. It is unlawful for a fish dealer to purchase or sell or in any manner deal in fish except in conformity with the provisions of this section.~~

~~(d) Every fish dealer subject to the licensing provisions of this section must secure a separate license or set of licenses for each established location.~~

~~(e)~~ (c) Fees. -- Every fish dealer subject to licensing requirements must secure an annual license at each established location for each of the following activities transacted there, upon payment of the fee set out:

(1) Dealing in oysters:
   a. Oyster shucker-packer (including sale of shell stock), one hundred dollars ($100.00).
   b. Oyster shell stock shipper, fifty dollars ($50.00).

(2) Dealing in scallops:
   a. Scallop shucker-packer (including sale of shell stock), one hundred dollars ($100.00).
   b. Scallop shell stock shipper, fifty dollars ($50.00).

(3) Dealing in clams:

a. Clam shucker-packer (including sale of shell stock), one hundred dollars ($100.00).
b. Clam shell stock shipper, fifty dollars ($50.00).

(4) Dealing in hard and soft crabs:
a. Crab processor (including dealing in unprocessed crabs), one hundred dollars ($100.00).
b. Unprocessed crab dealer, fifty dollars ($50.00).

(5) Dealing in shrimp:
a. Shrimp processor (including dealing in unprocessed shrimp), one hundred dollars ($100.00).
b. Unprocessed shrimp dealer, fifty dollars ($50.00).

(6) Dealing in finfish:
a. Finfish processor (including dealing in unprocessed finfish), one hundred dollars ($100.00).
b. Unprocessed finfish dealer, fifty dollars ($50.00).

(7) Operating menhaden processing plant, one hundred dollars ($100.00).

(8) Operating any other fish-dehydrating or oil-extracting plant, fifty dollars ($50.00).

Any person subject to fish-dealer licensing requirements who deals in fish not included in the above categories must secure a finfish dealer license. The Marine Fisheries Commission may make reasonable rules implementing and clarifying the dealer categories of this subsection.

(d) License Format. -- The format of the license shall include the name of the licensee, date of birth, name and address of each business location, expiration date of the license, and any other information the Division deems necessary to accomplish the purposes of this Subchapter.

(e) Application for License. -- An application for a fish dealer's license shall be filed with the Morehead City offices of the Division of Marine Fisheries. An application shall be accompanied by the fee established in subsection (c) of this section. Applications shall not be accepted from persons ineligible to hold a license issued by the Marine Fisheries Commission, including any applicant whose license is suspended or revoked on the date of the application. The applicant shall be provided with a copy of the application marked received. The copy shall serve as the fish dealer's license until the license issued by the Division is received or the Division determines that the applicant is ineligible to hold a license. Where ~~a dealer~~ an applicant does not have an established location for transacting the fisheries business within the State, the license application must be denied unless the applicant satisfies the Secretary that his residence, or some other office or address, within the State, is a suitable substitute for an established

location and that records kept in connection with licensing, sale, and ~~tax~~ purchase requirements will be available for inspection when necessary. Fish dealers' licenses are issued on a fiscal year basis upon payment of a fee as set forth herein upon proof, satisfactory to the Secretary, that the license applicant is a resident of North Carolina.

(f) Application for Replacement License. -- A replacement license shall only be obtained from the Morehead City offices of the Division of Marine Fisheries. The Division shall not accept an application for a replacement license unless the Division determines that the applicant's current license has not been suspended or revoked. A copy of an application duly filed with the Division shall serve as the license until the replacement license has been received.

(g) Purchase and Sale of Fish. -- It is unlawful for a fish dealer to buy fish unless the seller possesses a current and valid endorsement to sell and the dealer records the transaction on a form provided by the Department consistent with the recording requirements of G.S. 113-154.1. It is unlawful for a fish dealer to possess or sell fish taken from coastal fishing waters in violation of this Subchapter or the rules adopted by the Marine Fisheries Commission implementing this Subchapter.

(h) License Nontransferable. -- Any fish dealer license issued under this section is nontransferable. It is unlawful to use a fish dealer license issued to another person in the sale or attempted sale of fish or for a licensee to lend or transfer a fish dealer license for the purpose of circumventing the requirements of this section.

(i) Penalties. -- Any person who violates any provision of this section or any rule by the Marine Fisheries Commission to implement this section is guilty of a misdemeanor.

(1) A violation of subsections (a), (g), or (h) or a rule of the Marine Fisheries Commission implementing any of those subsections is a misdemeanor punishable as follows:

a. For a first conviction, a fine of not less than fifty dollars ($50.00) or double the value of the fish which are the subject of the transaction, whichever is greater, not to exceed two hundred fifty dollars ($250.00), or imprisonment not to exceed 30 days.

b. For a second conviction within three years, a fine of not less than two hundred fifty dollars ($250.00) or double the value of the fish which are the subject of the transaction, whichever is greater, not to exceed five hundred dollars ($500.00), or imprisonment not to exceed 90 days, or both.

c. For a third or subsequent conviction within three years, a fine of not less than five hundred dollars ($500.00) or double the value of the fish which are the subject of the transaction, whichever is greater, or imprisonment not to exceed six months, or both.

(2) A violation of any other provision of this section other than subsections (a), (g), or (h), or of any rule of the Marine Fisheries Commission other than a rule implementing subsections (a), (g), or (h) of this section, is punishable under G.S. 113-135(a)."

Sec. 5. G.S. 113-161 reads as rewritten:

"§ *113-161. Nonresidents reciprocal agreements.*

Persons who are not residents of North Carolina are not entitled to obtain licenses under the provisions of G.S. 113-152 or G.S. 154.1 except as hereinafter provided. Residents of jurisdictions which sell commercial fishing licenses to North Carolina residents are entitled to North Carolina commercial fishing licenses under the provisions of G.S. 113-152 or G.S. 154.1. Such licenses may be restricted in terms of area, gear and fishery by the ~~commission~~ Marine Fisheries Commission so that the nonresidents are licensed to engage in North Carolina fisheries on the same or similar terms that North Carolina residents can be licensed to engage in the fisheries of such other jurisdiction. The Secretary may enter into such reciprocal agreements with other jurisdictions as are necessary to allow nonresidents to obtain commercial fishing licenses in North Carolina subject to the foregoing provisions."

Sec. 6. G.S. 113-129(14) reads as rewritten:

"(14) Shellfish. -- Mollusca, specifically including oysters, clams, mussels, ~~and scallops.~~ scallops, conchs and whelks."

Sec. 7. The Marine Fisheries Commission may use such powers as may be reasonably necessary to accomplish the purposes of this act. The Director of the Division of Marine Fisheries of the Department of Environment, Health, and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture by December 1, 1993, on implementation of this act.

Sec. 8. G.S. 113-154.1(i), as enacted by Section 3 of this act, becomes effective December 1, 1993, and applies to violations committed on or after that date. The remainder of this act is effective upon ratification. The fees for endorsements to sell apply to endorsements issued on or after that date. This act expires July 1, 1996.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 364 CHAPTER 516

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE CHILD FATALITY TASK FORCE TO AMEND THE JUVENILE LAW AND OTHER LAWS TO PROTECT CHILDREN MORE EFFECTIVELY FROM ABUSE, NEGLECT, AND DEPENDENCY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-517(1) reads as rewritten:

"(1) Abused Juveniles. -- Any juvenile less than 18 years of age whose ~~parent or other person responsible for his care;~~ parent, guardian, custodian, or caretaker:

a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental ~~means which causes or creates a substantial risk of death, disfigurement, impairment of physical health, or loss or impairment of function of any bodily organ;~~ means; or

b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental ~~means which would be likely to cause death, disfigurement, impairment of physical health, or loss or impairment of the function of any bodily organ;~~ means; or

b1. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior; or

c. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first degree rape, as provided in G.S. 14-27.2; second degree rape as provided in G.S. 14-27.3; first degree sexual offense, as provided in G.S. 14-27.4; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178 and 14-179; preparation of obscene photographs, slides or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material

harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-190.18; and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1, regardless of the age of the ~~parties.~~ parties; or

d. Creates or allows to be created serious emotional damage to the ~~juvenile~~ juvenile. ~~and refuses to permit, provide for, or participate in treatment.~~ Serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal or aggressive behavior toward himself or others; or

e. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile."

Sec. 2. G.S. 7A-517(5) reads as rewritten:

"(5) Caretaker. -- Any person other than a ~~parent who has the care of a juvenile. Caretaker includes any blood relative, stepparent, foster parent, house parent, cottage parent, or other person supervising a juvenile in a child-care facility.~~ parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility. 'Caretaker' also means any person who has the responsibility for the care of a juvenile in a child day care home or child day care facility ~~as defined in G.S. 110-86~~ as defined in Article 7 of Chapter 110 of the General Statutes and includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of Chapter 7A of the General Statutes only."

Sec. 3. G.S. 7A-517(13) reads as rewritten:

"(13) Dependent Juvenile. -- A juvenile in need of assistance or placement because he has no parent, ~~guardian~~ guardian, or custodian responsible for ~~his~~ the juvenile's care or supervision or whose parent, guardian, or ~~custodian~~ custodian, due to physical or mental incapacity and the absence of an appropriate alternative child care arrangement, is unable to provide for ~~his~~ the care or supervision."

Sec. 4. G.S. 7A-543 reads as rewritten:

"*§ 7A-543. Duty to report child ~~abuse or neglect.~~ abuse, neglect, dependency, or death due to maltreatment.*

Any person or institution who has cause to suspect that any juvenile is ~~abused or neglected~~ abused, neglected, or dependent, as defined by G.S. 7A-517, or has died as the result of maltreatment, shall report the case of that juvenile to the Director of the Department of Social Services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from ~~abuse or neglect~~ abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give ~~his~~ the person's name, address, and telephone number. Refusal of the person making the report to give ~~his~~ a name shall not preclude the Department's investigation of the alleged ~~abuse or neglect.~~ abuse, neglect, dependency, or death as a result of maltreatment.

~~In the case of any report of abuse, the Director of Social Services, upon receipt of the report, may immediately provide the appropriate local law-enforcement agency with information on the nature of the report. The law-enforcement agency may investigate the report, and upon request of the Director of the Department of Social Services, the law-enforcement agency shall provide assistance with the investigation.~~

Upon receipt of any report of child sexual abuse in a day care facility or day care home, the Director shall notify the State Bureau of Investigation within 24 hours or on the next work day. If child sexual abuse in a day care facility or day care home is not alleged in the initial report, but during the course of the investigation there is reason to suspect that child sexual abuse has occurred, the Director shall

immediately notify the State Bureau of Investigation. Upon notification that child sexual abuse may have occurred in a day care facility or day care home, the State Bureau of Investigation may form a task force to investigate the report."

Sec. 5. G.S. 7A-544 reads as rewritten:

"*§ 7A-544. Investigation by Director; access to confidential information; notification of person making the report.*

When a report of ~~abuse or neglect~~ abuse, neglect, or dependency is received, the Director of the Department of Social Services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the Director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges ~~neglect,~~ neglect or dependency, the Director shall initiate the investigation within 72 hours following receipt of the report. The investigation and evaluation shall include a visit to the place where the juvenile resides. All information received by the Department of Social Services shall be held in strictest confidence by the Department.

When a report of a juvenile's death as a result of suspected maltreatment is received, the Director of the Department of Social Services shall immediately ascertain if other juveniles remain in the home, and, if so, initiate an investigation in order to determine whether they require protective services or whether immediate removal of the juveniles from the home is necessary for their protection.

If the investigation ~~reveals abuse or neglect,~~ indicates that abuse, neglect, or dependency has occurred, the Director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the Director shall immediately provide or arrange for protective services. If the parent or other caretaker refuses to accept the protective services provided or arranged by the Director, the Director shall sign a complaint seeking to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

If immediate removal seems necessary for the protection of the juvenile or other juveniles in the home, the Director shall sign a complaint which alleges the applicable facts to invoke the jurisdiction of the court. Where the investigation shows that it is warranted, a protective services worker may assume temporary custody of the juvenile for the juvenile's protection pursuant to Article 46 of this Chapter.

In performing any of these duties, the Director may ~~utilize the staff of the county Department of Social Services or any other public or private community agencies that may be available. The Director may also consult with the~~ consult with any public or private agencies or individuals, including the available State or local law-enforcement officers who shall assist in the investigation and evaluation of the seriousness of any report of ~~abuse or neglect~~ abuse, neglect, or dependency when requested by the Director. The Director or the Director's representative may make a written demand for any information or reports, whether or not confidential, that may in the Director's opinion be relevant to the protective services case. Upon the Director's or the Director's representative's request and unless protected by the attorney-client privilege, any public or private agency or individual shall provide access to and copies of this confidential information and these records to the extent permitted by federal law and regulations. If a custodian of criminal investigative information or records believes that release of such information will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information. In such an action, the custodian of the records shall have the burden of showing by a preponderance of the evidence that disclosure of the information in question will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation. Actions brought pursuant to this paragraph shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

~~Unless a petition is filed within~~ Within five working days after receipt of the report of ~~abuse or neglect,~~ abuse, neglect, or dependency, the Director shall give written notice to the person making the ~~report that:~~ report, unless requested by that person not to give notice, as to whether the report was accepted for investigation and whether the report was referred to the appropriate State or local law enforcement agency.

Within five working days after completion of the protective services investigation, the Director shall give subsequent written notice to the person making the report, unless requested by that person not to give notice, as to whether there is a finding of abuse, neglect, or dependency, whether the county Department of Social Services is taking action to protect the juvenile, and what action it is taking.

~~(1) There is no finding of abuse or neglect; or~~

~~(2) The county Department of Social Services is taking action to protect the welfare of the juvenile and what specific action it is taking.~~

~~The notification~~ The second notification shall include notice that, if the person making the report is not satisfied with the Director's decision, he may request review of the decision by the prosecutor within five working days of receipt. The person making the report may waive his right to this notification and no notification is required if the person making the report does not identify himself to the Director."

Sec. 6. G.S. 7A-544.1(b) reads as rewritten:

"(b) For purposes of this section, obstruction of or interference with an investigation means refusing to disclose the whereabouts of the juvenile, refusing to allow the director to have personal access to the juvenile, refusing to allow the director to observe or interview the juvenile in private, refusing to allow the Director access to confidential information and records upon request pursuant to G.S. 7A-544, refusing to allow the director to arrange for an evaluation of the juvenile by a physician or other expert, or other conduct that makes it impossible for the director to carry out ~~his~~ the duty to investigate."

Sec. 7. G.S. 7A-547 reads as rewritten:

"*§ 7A-547. Review by prosecutor.*

The prosecutor shall review the Director's determination that a petition should not be filed within 20 days after the person making the report is notified. The review shall include conferences with the person making the report, the protective services worker, the juvenile, if practicable, and other persons known to have pertinent information about the juvenile or ~~his~~ the juvenile's family. At the conclusion of the conferences, the prosecutor may affirm the decision made by the ~~Director~~ Director, may request the appropriate local law enforcement agency to investigate the allegations, or may ~~authorize the filing of~~ direct the Director to file a petition."

Sec. 8. G.S. 7A-548 reads as rewritten:

"*§ 7A-548. Duty of Director to report evidence of abuse, neglect; investigation by local law enforcement; notification of Department of Human Resources and State Bureau of Investigation.*

(a) If the Director finds evidence that a juvenile ~~has~~ may have been abused as defined by G.S. 7A-517(1), ~~he~~ the Director shall ~~immediately~~ make ~~a~~ an immediate oral and subsequent written report of the findings ~~of his investigation~~ to the district ~~attorney, who shall determine if criminal prosecution is appropriate, and who may request the Director or his designee to appear before a magistrate,~~ attorney or the district attorney's designee and the appropriate local law enforcement agency within 48 hours after receipt of the report. The

local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate and coordinate a criminal investigation with the protective services investigation being conducted by the county Department of Social Services. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate and may request the Director or the Director's designee to appear before a magistrate.

If the Director receives information that a juvenile ~~has~~ may have been physically harmed in violation of any criminal statute by any person other than the juvenile's ~~parent or other person responsible for his care,~~ parent, guardian, custodian, or caretaker, ~~he~~ the Director shall make an immediate oral ~~or~~ and subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate local law enforcement agency within ~~24~~ 48 hours after receipt of the information. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate a criminal investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a juvenile in day care, either in a day care facility or a day care home, the Director shall notify the Department of Human Resources within 24 hours or on the next working day of receipt of the report.

(a1) If the Director finds evidence that a juvenile has been abused or neglected as defined by G.S. 7A-517 in a day care facility or day care home, he shall immediately so notify the Department of Human Resources and, in the case of child sexual abuse, the State Bureau of Investigation, in such a way as does not violate the law guaranteeing the confidentiality of the records of the Department of Social Services.

(a2) Upon completion of the investigation, the Director shall give the Department written notification of the results of the investigation required by G.S. 7A-544. Upon completion of an investigation of child sexual abuse in a day care facility or day care home, the Director shall also make written notification of the results of the investigation to the State Bureau of Investigation.

The Director of the Department of Social Services shall submit a report of alleged ~~abuse or neglect~~ abuse, neglect, or dependency cases or child fatalities that are the result of alleged maltreatment to the central registry under the policies adopted by the Social Services Commission."

Sec. 9. G.S. 7A-550 reads as rewritten:

"*§ 7A-550. Immunity of persons ~~reporting~~ reporting and cooperating in an investigation.*

(a) Anyone who makes a report pursuant to this Article, cooperates with the county department of social services in ~~any ensuing~~ a protective services inquiry or investigation, testifies in any judicial proceeding resulting from ~~the report,~~ a protective services report or investigation, or otherwise participates in the program authorized by this Article, is immune from any civil or criminal liability that might otherwise be incurred or imposed for such action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.'"

Sec. 10. G.S. 7A-551 reads as rewritten:

"*§ 7A-551. Privileges not grounds for failing to report or for excluding evidence.*

~~Neither the physician-patient privilege, the psychologist-client privilege, nor the husband-wife privilege~~ No privilege shall be grounds for any person or institution failing to report that a juvenile may have been abused, neglected, or dependent, even if the knowledge or suspicion is acquired in an official professional capacity, except when the knowledge or suspicion is gained by an attorney from that attorney's client during representation only in the abuse, neglect or dependency case. No privilege, except the attorney-client privilege, shall be grounds for excluding evidence of ~~abuse or neglect~~ abuse, neglect, or dependency in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's ~~abuse or neglect~~ abuse, neglect, or dependency is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as ~~said privileges relate~~ this privilege relates to the competency of the witness and to the exclusion of confidential communications."

Sec. 11. G.S. 7A-552 reads as rewritten:

"*§ 7A-552. Central registry.*

The Department of Human Resources shall maintain a central registry of ~~abuse and neglect cases~~ abuse, neglect, and dependency cases and child fatalities that are the result of alleged maltreatment that are reported under this Article in order to compile data for appropriate study of the extent of abuse and neglect within the State and to identify repeated abuses of the same juvenile or of other juveniles in the same family. This data shall be furnished by county directors of social services to the Department of Human Resources and shall be confidential, subject to policies adopted by the Social Services Commission ~~which provide~~ providing for its ~~appropriate~~ use for study and ~~research,~~ research and for other appropriate disclosure. Data shall not be used at any hearing or court proceeding unless based upon a final judgment of a court of law."

Sec. 12. G.S. 122C-54(h) reads as rewritten:

"(h) A facility ~~may~~ shall disclose confidential information for purposes of complying with Article 44 of Chapter 7A of the General Statutes and Article 6 of Chapter 108A of the General Statutes, or as required by other State or federal law."

Sec. 13. Nothing in this act obligates the General Assembly to make any appropriations to implement it.

Sec. 14. This act becomes effective October 1, 1993, and applies to allegations of abuse, neglect, or dependency initiating on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 538 **CHAPTER 517**

AN ACT TO PROVIDE FOR IMMEDIATE INCOME WITHHOLDING IN NON-IV-D CHILD SUPPORT CASES AS REQUIRED BY THE FEDERAL FAMILY SUPPORT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-136.3 reads as rewritten:

"*§ 110-136.3. Income withholding procedures; applicability.*

(a) Required Contents of Support Orders. All child support orders, civil or criminal, entered or modified in the State in IV-D cases ~~beginning October 1, 1989,~~ shall include a provision ordering income withholding to take effect immediately. All child support orders, civil or criminal, initially entered in the State in non-IV-D cases on or after January 1, 1994, shall include a provision ordering income withholding to take effect immediately as provided in G.S. 110-136.5(c1), unless one of the exceptions specified in G.S. 110-136.5(c1) applies. A non-IV-D child support order that contains an income withholding requirement and a IV-D child support order shall:

(1) Require the obligor to keep the clerk of court or IV-D agency informed of ~~his~~ the obligor's current residence and mailing address;

~~(2) In non-IV-D cases, include a provision that an obligor will be subject to income withholding under a separate order if arrearages equal to the support payable for one month accumulate; or upon request of the obligor; or upon the court's findings, pursuant to a motion or independent action filed by the obligee, that the obligor is or has been delinquent in making child support payments or has been erratic in making child support payments;~~

~~(2a) In IV-D cases, include a provision ordering income withholding to take effect immediately;~~

(3) Require the obligor to cooperate fully with the initiating party in the verification of the amount of ~~his~~ the obligor's disposable income;

(4) Require the custodial party to keep the obligor informed of (i) the custodial party's disposable income and the amount and effective date of any substantial change in this disposable income and (ii) the current residence and mailing address of the child, unless the court has determined that notice to the obligor is inappropriate because the obligor has made verbal or physical threats that constitute domestic violence under Chapter 50B of the General Statutes; and

(5) ~~If the case is a IV-D case, require~~ Require the obligor to keep the ~~IV-D agency~~ initiating party informed of the name and address of any payor of ~~his~~ the obligor's disposable income and of the amount and effective date of any substantial change in ~~his~~ this disposable income.

(b) When obligor subject to withholding.

(1) In IV-D cases in which a new or modified child support order is entered on or after October 1, 1989, an obligor is subject to income withholding immediately upon entry of the order. In IV-D cases in which the child support order was entered prior to October 1, 1989, an obligor shall become subject to income withholding on the earliest of:

a. The date on which the obligor fails to make legally obligated child support payments in an amount equal to the support payable for one month; or

b. The date on which the obligor or obligee requests withholding.

(2) In non-IV-D ~~cases,~~ cases in which the child support order was entered prior to January 1, 1994, an obligor shall be subject to income withholding on the earliest of:

a. The date on which the obligor fails to make legally obligated child support payments in an amount equal to the support payable for one month; or

b. The date on which the obligor requests withholding; or

c. The date on which the court determines, pursuant to a motion or independent action filed by the obligee under G.S. 110-136.5(a), that the obligor is or has been delinquent in making child support payments or has been erratic in making child support payments.

~~(c) Applicability. Notwithstanding any other provision of law, the income withholding provisions of this Article shall apply to any civil~~

~~or criminal child support order, entered or modified before, on, or after October 1, 1986.~~

(d) Interstate cases. An interstate case is one in which a child support order of one state is to be enforced in another state.

(1) In interstate cases withholding provisions shall apply to a child support order of this or any other state. A petition addressed to this State to enforce a child support order of another state or a petition from an initiating party in this State addressed to another state to enforce a child support order entered in this State shall include:

a. A certified copy of the support order with all modifications, including any income withholding notice or order still in effect;

b. A copy of the income withholding law of the jurisdiction which issued the support order, provided that ~~such~~ this jurisdiction has a withholding law;

c. A sworn statement of arrearages;

d. The name, address, and social security number of the obligor, if known;

e. The name and address of the obligor's employer or of any other source of income of the obligor derived in the state in which withholding is sought; and

f. The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

~~For purposes of enforcing a petition under this subsection, jurisdiction is limited to the purposes of income withholding.~~

(2) The law of the state in which the support order was entered shall apply in determining when withholding shall be implemented and interpreting the child support order. The law and procedures of the state where the obligor is employed shall apply in all other respects.

(3) Except as otherwise provided by subdivision (2), income withholding initiated under this subsection is subject to all of the notice, hearing and other provisions of Chapter 110.

(4) In all interstate cases notices and orders to withhold shall be served upon the payor by a North Carolina agency or judicial officer. In all interstate non-IV-D cases, the advance notice to the obligor shall be served pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure.

(5) For purposes of enforcing a petition under this subsection, jurisdiction is limited to the purposes of income withholding and Chapter 52A of the General Statutes shall

not apply. Nothing in this subsection precludes any remedy otherwise available in a proceeding under Chapter 52A of the General Statutes.

(e) Procedures and regulations. Procedures, rules, regulations, forms, and instructions necessary to effect the income withholding provisions of this Article shall be established by the Secretary of the Department of Human Resources or ~~his~~ the Secretary's designee and the Administrative Office of the Courts. Forms and instructions shall be sent with each order or notice of withholding."

Sec. 2. G.S. 110-136.5 is amended by adding a new subsection to read:

"(c1) Immediate income withholding. In non-IV-D cases in which a child support order is initially entered on or after January 1, 1994, an obligor is subject to income withholding immediately upon entry of the order, unless either of the following applies:

a. One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding.

b. A written agreement is reached between the parties that provides for an alternative arrangement.

The term 'good cause' as used in this subsection includes a reasonable and workable plan for consistent and timely payments by some means other than income withholding. In considering whether a plan is reasonable, the court may consider the obligor's employment history and record of meeting financial obligations in a timely manner.

In entering an order for immediate income withholding under this subsection, the court shall follow the requirements and procedures as specified in other sections of this Article, including amount to be withheld, multiple withholdings, notice to payor, and termination of withholding."

Sec. 3. G.S. 14-322(e) reads as rewritten:

"(e) Upon conviction for an offense under this section, the court may make such order as will best provide for the support, as far as may be necessary, of the abandoned spouse or child, or both, from the property or labor of the defendant. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c). For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) shall apply."

Sec. 4. G.S. 15A-1344.1(a) reads as rewritten:

"(a) When the court requires, as a condition of supervised or unsupervised probation, that a defendant support his children, the court may order at any time that support payments be made to the clerk of court for remittance to the party entitled to receive the

payments. For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) shall apply."

Sec. 5. G.S. 50-13.4 is amended by adding the following new subsection to read:

"(d1) For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) shall apply."

Sec. 6. 50-13.9(a) reads as rewritten:

"(a) Upon its own motion or upon motion of either party, the court may order at any time that support payments be made to the clerk of court for remittance to the party entitled to receive the payments. For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) shall apply."

Sec. 7. This act becomes effective January 1, 1994, and applies to all orders entered on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 541 **CHAPTER 518**

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE GENERAL STATUTES COMMISSION TO DELETE THE DOMICILIARY OR RESIDENCY AND CITIZENSHIP REQUIREMENTS FOR EXAMINATION AND LICENSURE AS A CERTIFIED PUBLIC ACCOUNTANT AND TO MAKE TECHNICAL AMENDMENTS BY DELETING OBSOLETE REFERENCES TO PUBLIC ACCOUNTANTS.

The General Assembly of North Carolina enacts:

Section 1. The title of Chapter 93 of the General Statutes reads as rewritten:

"Chapter 93.

"Certified Public Accountants."

Sec. 2. G.S. 93-1 reads as rewritten:

"§ *93-1. Definitions; practice of law.*

(a) Definitions. -- As used in this Chapter certain terms are defined as follows:

(1) An 'accountant' is a person engaged in the public practice of accountancy who is ~~neither~~ not a certified public accountant ~~nor a public accountant~~ as defined in this Chapter.

(2) 'Board' means the Board of Certified Public Accountant Examiners as provided in this Chapter.

(3) A 'certified public accountant' is a person who holds a certificate as a certified public accountant issued to him under the provisions of this Chapter.

~~(4) A 'public accountant' is a person engaged in the public practice of accountancy who is registered as a public accountant under the provisions of this Chapter.~~

(5) A person is engaged in the 'public practice of accountancy' who holds himself out to the public as a certified public accountant or an accountant and in consideration of compensation received or to be received offers to perform or does perform, for other persons, services which involve the auditing or verification of financial transactions, books, accounts, or records, or the preparation, verification or certification of financial, accounting and related statements intended for publication or renders professional services or assistance in or about any and all matters of principle or detail relating to accounting procedure and systems, or the recording, presentation or certification and the interpretation of such service through statements and reports.

(b) Practice of Law. -- Nothing in this Chapter shall be construed as authorizing certified public ~~accountants, public accountants~~ accountants or accountants to engage in the practice of law, and such person shall not engage in the practice of law unless duly licensed so to do."

Sec. 3. G.S. 93-2 reads as rewritten:

"*§ 93-2. Qualifications.*

Any person who is a citizen of the United States, ~~or person who~~ has ~~duly~~ declared ~~his~~ the intention of becoming ~~such~~ a citizen, is a resident alien, or is a citizen of a foreign jurisdiction which extends to citizens of this State like or similar privileges to be examined or certified, and who is over 18 years of age and of good moral character, and who ~~shall have~~ has received from the State Board of Certified Public Accountant Examiners a certificate of qualification ~~admitting him~~ to practice as a certified public accountant ~~as hereinafter provided, or who is the holder of a valid and unrevoked certificate issued under the provisions of Chapter 157 of the Public Laws of 1913,~~ shall be licensed to practice and be styled and known as a certified public accountant."

Sec. 4. G.S. 93-6 reads as rewritten:

"*§ 93-6. Practice as accountants permitted; use of misleading titles prohibited.*

It shall be unlawful for any person to engage in the public practice of accountancy in this State who is not a holder of a certificate as a certified public accountant issued by the Board, ~~or is not registered as~~

~~a public accountant under the provisions of this Chapter,~~ unless such person uses the term 'accountant' and only the term 'accountant' in connection with his name on all reports, letters of transmittal, or advice, and on all stationery and documents used in connection with his services as an accountant, and refrains from the use in any manner of any other title or designation in such practice."

Sec. 5. G.S. 93-7 is repealed.

Sec. 6. G.S. 93-9 reads as rewritten:

"*§ 93-9. Assistants need not be certified.*

Nothing contained in this Chapter shall be construed to prohibit the employment by a certified public accountant or by any person, firm, copartnership, association, or corporation permitted to engage in the practice of public accounting in the State of North Carolina, of persons who have not received certificates of qualification admitting them to practice as certified public accountants, as assistant accountants or clerks: Provided, that such employees work under the control and supervision of certified public accountants ~~or public accountants,~~ and do not certify to anyone the accuracy or verification of audits or statements; and provided further, that such employees do not hold themselves out as engaged in the practice of public accounting."

Sec. 7. G.S. 93-10 reads as rewritten:

"*§ 93-10. Persons certified in other states.*

~~A public accountant~~ An individual who holds a valid and unrevoked certificate as a certified public accountant, or its equivalent, issued under authority of any state, or the District of Columbia, and who resides without the State of North Carolina, may perform work within the State: Provided, that he register with the State Board of Certified Public Accountant Examiners and comply with its rules regarding such registration."

Sec. 8. G.S. 93-12 reads as rewritten:

"*§ 93-12. Board of Certified Public Accountant Examiners.*

The name of the State Board of Accountancy is hereby changed to State Board of Certified Public Accountant Examiners and said name State Board of Certified Public Accountant Examiners is hereby substituted for the name State Board of Accountancy wherever the latter name appears or is used in Chapter 93 of the General Statutes. Said Board is created as an agency of the State of North Carolina and shall consist of seven members to be appointed by the Governor, five persons to be holders of valid and unrevoked certificates as certified public accountants issued under the provisions of this Chapter and two persons who are not certified public accountants who shall represent the interest of the public at large. Members of the Board shall hold office for the term of three years and until their successors are

appointed. Appointments to the Board shall be made under the provisions of this Chapter as and when the terms of the members of the present State Board of Accountancy expire; provided, that all future appointments to said Board shall be made for a term of three years expiring on the thirtieth day of June. All Board members serving on June 30, 1980, shall be eligible to complete their respective terms. No member appointed to a term on or after July 1, 1980, shall serve more than two complete consecutive terms. The powers and duties of the Board shall be as follows:

(1) To elect from its members a president, vice-president and secretary-treasurer. The members of the Board shall receive compensation and reimbursement for travel expenses in accordance with G.S. 93B-5.

(2) To employ legal counsel, clerical and technical assistance and to fix the compensation therefor, and to incur such other expenses as may be deemed necessary in the performance of its duties and the enforcement of the provisions of this Chapter. Upon request the Attorney General of North Carolina will advise the Board with respect to the performance of its duties and will assign a member of his staff, or approve the employment of counsel, to represent the Board in any hearing or litigation arising under this Chapter. The Board may, in the exercise of its discretion, cooperate with similar boards of other states, territories and the District of Columbia in activities designed to bring about uniformity in standards of admission to the public practice of accountancy by certified public accountants, and may employ a uniform system of preparation of examinations to be given to candidates for certificates as certified public accountants, including the services and facilities of the American Institute of Certified Public Accountants, or of any other persons or organizations of recognized skill in the field of accountancy, in the preparation of examinations and assistance in establishing and maintaining a uniform system of grading of examination papers, provided however, that all examinations given by said Board shall be adopted and approved by the Board and that the grade or grades given to all persons taking said examinations shall be determined and approved by the Board.

(3) To formulate rules for the government of the Board and for the examination of applicants for certificates of qualification admitting such applicants to practice as certified public accountants.

(4) To hold written or oral examinations of applicants for certificates of qualification at least once a year, or ~~oftener,~~ more often, as may be deemed necessary by the Board.

(5) To issue certificates of qualification admitting to practice as certified public accountants, each applicant who, having the qualifications herein specified, shall have passed an examination to the satisfaction of the Board, in 'accounting theory,' 'accounting practice,' 'auditing,' 'business law,' and other related subjects.

~~From and after July 1, 1961, any~~ Any person shall be eligible to take the examination given by the Board, or to receive a certificate of qualification to practice as a certified public accountant, who is a citizen of the United ~~States~~ States, ~~or~~ has declared ~~his~~ the intention of becoming a ~~citizen~~ citizen, ~~or~~ is a resident alien, ~~and has been domiciled in or resided for at least four months within the State of North Carolina immediately prior to the filing of an application to take the examination or to receive a certificate of qualification,~~ or is a citizen of a foreign jurisdiction which extends to citizens of this State like or similar privileges to be examined or certified, is 18 years of age or over, ~~and~~ is of good moral character, and submits evidence satisfactory to the Board that:

a. He holds a bachelor's degree from a college or university accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution, and
b. His degree studies included a concentration in accounting as defined by the Board or that he supplemented his degree studies with courses that the Board determines to be substantially equivalent to a concentration in accounting, and
c. Satisfactory evidence of the completion of two years in an accredited college or university or its equivalent with a concentration in accounting as defined by the Board and two years experience in the practice of public accountancy under the direct supervision of a certified public accountant, in addition to other experience requirements in this section, may be substituted for a bachelor's degree.

Provided, however, the Board may, in its discretion, waive the education requirement of any candidate if the Board is satisfied from the result of a special written

examination given the candidate by the Board to test his educational qualifications that he is as well equipped, educationally, as if he met the education requirements specified above. The Board may provide by regulation for the general scope of such examinations and may obtain such advice and assistance as it deems appropriate to assist it in preparing, administering and grading such special examinations.

Such applicant, in addition to passing the examination given by the Board, shall have the endorsement as to his eligibility of three certified public accountants who currently hold licenses in any state or territory of the United States or the District of Columbia and shall have had either:

a. Two years experience in the field of accounting under the direct supervision of a certified public accountant who currently holds a valid license in any state or territory of the United States or the District of Columbia, or
b. Five years experience teaching accounting in a four-year college or university accredited by one of the regional accrediting associations or in a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution; or
c. Five years experience in the field of accounting; or five years experience teaching college transfer accounting courses at a community college or technical institute accredited by one of the regional accrediting associations; or
d. Any combination of such experience determined by the Board to be substantially equivalent to the foregoing.

A Master's or more advanced degree in accounting, tax law, economics, business administration, or the equivalent thereof, or a law degree with emphasis in taxation or accounting from an accredited college or university may be substituted for one year of experience. The Board may permit persons otherwise eligible to take its examinations and withhold certificates until such person shall have had the required experience.

(6) In its discretion to grant certificates of qualification admitting to practice as certified public accountants such applicants who shall be the holders of valid and unrevoked certificates as certified public accountants, or the

equivalent, issued by or under the authority of any state, or territory of the United States or the District of Columbia, when in the judgment of the Board the requirements for the issuing or granting of such certificates or degrees are substantially equivalent to the requirements established by this Chapter: Provided, however, ~~that such applicant has been a bona fide resident of this State for not less than four months or, if a nonresident, he has maintained or has been a member of a firm that has maintained for not less than four months a bona fide office within this State for the public practice of accounting and, provided further,~~ that the state or political subdivision of the United States upon whose certificate the reciprocal action is based grants the same privileges to holders of certificates as certified public accountants issued pursuant to the provisions of this Chapter. The Board, by general rule, may grant temporary permits to applicants under this subsection pending their qualification for reciprocal certificates.

(7) To charge for each examination provided for in this Chapter a fee not exceeding two hundred dollars ($200.00). This fee shall be payable to the secretary-treasurer of the Board by the applicant at the time of filing application. In no case shall the examination fee be refunded, unless in the discretion of the Board the applicant shall be deemed ineligible for examination.

(7a) To charge for each initial certificate of qualification provided for in this Chapter a fee not exceeding seventy-five dollars ($75.00).

(7b) To require an annual registration of each firm and to charge an annual registration fee not to exceed two hundred dollars ($200.00) for each firm with one office, and a fee not to exceed twenty-five dollars ($25.00) for each additional North Carolina office of the firm, to defray the administrative costs of accounting practice review programs. The Board may charge an annual fee not to exceed twenty-five dollars ($25.00) for each firm application for exemption from the accounting practice review program.

(8) To require the renewal of all certificates of qualification annually on the first day of July, and to charge an annual renewal fee not to exceed fifty dollars ($50.00).

(8a) To require the registration of certified public accountant firms which have offices both within and outside of North Carolina, and the payment by such firms of an annual

registration fee based on the total number of partners in each such firm, but not to exceed two thousand five hundred dollars ($2,500) per firm per year.

(8b) To formulate rules and regulations for the continuing professional education of all persons holding the certificate of certified public accountant, subject to the following provisions:

a. After January 1, 1983, any person desiring to obtain or renew a certificate as a certified public accountant must offer evidence satisfactory to the Board that such person has complied with the continuing professional education requirement approved by the Board. The Board may grant a conditional license for not more than 12 months for persons who are being licensed for the first time, or moving into North Carolina, or for other good cause, in order that such person may comply with the continuing professional education requirement.

b. The Board shall promulgate rules and regulations for the administration of the continuing professional education requirement with a minimum number of hours of 20 and a maximum number of hours of 40 per year, and the Board may exempt persons who are retired or inactive from said continuing professional education requirement. The Board may also permit any certified public accountant to accumulate hours of continuing professional education in any calendar year of as much as two additional years annual requirement in advance of or subsequent to the required calendar year.

c. Any applicant who offers satisfactory evidence on forms promulgated by the Board that he has participated in a continuing professional education program of the type required by the Board shall be deemed to have complied with this section.

(8c) The Board may formulate rules and regulations for report review and peer review of audits, reviews, compilations, and other reports issued on financial information in the public practice of accountancy of all firms, as herein defined, subject to the following provisions:

a. After June 30, 1992, any firm desiring to obtain or maintain a registration as a firm must offer satisfactory evidence to the Board that such firm has complied with the peer review and report review requirements approved by the Board; provided, however, that the

Board shall give to every firm subject to this section not less than 12 months advance notice of each peer review and report review required of the firm.

b. The Board may grant a conditional registration for not more than 24 months for firms which are being registered for the first time, or moving into North Carolina, or for other good cause, in order that such firm may comply with the report review and peer review requirements, and in order that the Board may develop a system of review rotation among the various firms that must comply with this section.

c. The peer review and report review shall be valid for a minimum of three years subject to the power of the Board to require remedial action by any firm with a deficiency in the review according to the rules established by the Board.

d. The Board shall promulgate rules and regulations for the administration of the report review and peer review requirements and the Board shall exempt firms that show to the satisfaction of the Board that they are not engaged in the public practice of accountancy or that the scope of their practice does not come within the peer review and report review guidelines established by the Board.

e. Any firm that offers satisfactory evidence to the Board that the firm has satisfactorily participated in and successfully completed a peer review or a report review of the type required by the Board shall be deemed to have complied with this section and the Board shall promulgate rules and regulations for the administration of this procedure.

f. For purposes of this section, a firm means an entity, individual proprietorship, partnership or professional association through which one or more certificate holder engages in the public practice of accountancy through an office or offices.

(9) Adoption of Rules of Professional Conduct; Disciplinary Action. -- The Board shall have the power to adopt rules of professional ethics and conduct to be observed by certified public accountants ~~and public accountants~~ in this State. The Board shall have the power to revoke, either permanently or for a specified period, any certificate issued under the provisions of this Chapter to a certified public accountant ~~or public accountant~~ or to censure the holder of

any such certificate or to assess a civil penalty not to exceed one thousand dollars ($1,000) for any one or combination of the following causes:

a. Conviction of a felony under the laws of the United States or of any state of the United States.
b. Conviction of any crime, an essential element of which is dishonesty, deceit or fraud.
c. Fraud or deceit in obtaining a certificate as a certified public accountant.
d. Dishonesty, fraud or gross negligence in the public practice of accountancy.
e. Violation of any rule of professional ethics and professional conduct adopted by the Board.

Any disciplinary action taken shall be in accordance with the provisions of Chapter 150B of the General Statutes. Any civil penalty assessed under this section shall be collected by the Board and transferred to the State Treasurer for use in the General Fund.

~~(10) Within 60 days after March 10, 1925, the Board shall formulate rules for the registration of those persons, firms, copartnerships, associations or corporations who, not being holders of valid and unrevoked certificates as certified public accountants issued under the provisions of Chapter 157 of the Public Laws of 1913, and who, having on March 10, 1925, been engaged in the practice of public accounting and maintaining an office as a public accountant in the State of North Carolina, shall, under the provisions of G.S. 93-7 apply to the Board for registration as public accountants. The Board shall maintain a register of all persons, firms, copartnerships, associations or corporations who have made application for such registration and have complied with the rules of registration adopted by the Board.~~

~~(11) Within 60 days after March 10, 1925, the Board shall formulate rules for registration of these public accountants who are qualified to practice under this Chapter and who under the provisions of G.S. 93-10 are permitted to engage in work within the State of North Carolina. The Board shall have the power to deny or withdraw the privilege herein referred to for good and sufficient reasons.~~

(12) To submit annually on or before the first day of May to the Secretary of Revenue the names of all persons who have qualified under this Chapter as certified public ~~accountants~~ accountants. ~~or public accountants.~~ Privilege license issued

under G.S. 105-41 shall designate whether such license is issued to a certified public ~~accountant, a public accountant,~~ accountant or an accountant.

(13) The Board shall keep a complete record of all its proceedings and shall annually submit a full report to the Governor.

(14) All fees collected on behalf of the Board and all receipts of every kind and nature, as well as the compensation paid the members of the Board and the necessary expenses incurred by them in the performance of the duties imposed upon them, shall be reported annually to the State Treasurer. All fees and other moneys received by the Board pursuant to the provisions of the General Statutes shall be kept in a separate fund by the treasurer of the Board, to be held and expended only for such purposes as are proper and necessary to the discharge of the duties of the Board and to enforce the provisions of this Chapter. No expense incurred by the Board shall be charged against the State.

(15) Any certificate of qualification issued under the provisions of this Chapter, or issued under the provisions of Chapter 157 of the Public Laws of 1913, shall be forfeited for the failure of the holder to renew same and to pay the renewal fee therefor to the State Board of Accountancy within 30 days after demand for such renewal fee shall have been made by the State Board of Accountancy."

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 618 **CHAPTER 519**

AN ACT TO REMOVE THE EXPIRATION DATE FROM THE LAW ALLOWING THE DEPARTMENT OF TRANSPORTATION TO USE NONLICENSED OR NONCERTIFIED APPRAISERS IN THE ACQUISITION OF REAL ESTATE ACQUIRED BY THE DEPARTMENT WHEN THE ESTIMATED VALUE OF THE REAL ESTATE IS LESS THAN TEN THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 94 of the 1991 Session Laws reads as rewritten:

"Sec. 2. This act is effective upon ratification and expires July 1, ~~1993.~~ 1994."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 686 **CHAPTER 520**

AN ACT TO PROVIDE THAT THE REGULATION OF WATER SUPPLY WATERSHEDS DOES NOT APPLY TO CERTAIN WATERSHEDS AND TO AUTHORIZE HENDERSON AND TRANSYLVANIA COUNTIES AND THE CITY OF BREVARD TO TAKE INTO CONSIDERATION PROSPECTIVE REVENUES GENERATED BY A DEVELOPMENT IN ARRIVING AT THE AMOUNT OF CONSIDERATION FOR AN ECONOMIC DEVELOPMENT CONVEYANCE AND TO EXTEND WATER AND SEWER LINES TO INDUSTRIAL PROPERTIES FOR ECONOMIC DEVELOPMENT PURPOSES.

Whereas, the regulation of all watersheds unfairly restricts the economic development and growth of some local governments; and

Whereas, the terrain in Western North Carolina makes the regulation of all watersheds unnecessary; and

Whereas, it is unknown whether watershed zoning regulations would adversely affect the extension of Interstate Highway 26 to the Tennessee state line; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other law, the provisions of G.S. 143-214.5 shall not apply to any water supply watershed area classified as WS II by the Environmental Management Commission prior to July 1, 1993 and formerly classified as Class C, comprising 70,000 acres or more but less than 75,000 acres in watershed and protected area and lying in two or more counties, one of which has land use jurisdiction therein, and part of which lies in the land use regulation jurisdiction of a city or town, having a point of elevation of at least 1,650 feet above sea level and was not being used as a water supply for any municipality on July 1, 1993, said area also lying adjacent to a third county which lies within the same two-member State Senate district as do all or parts of the other two counties.

Sec. 2. Section 1 of this act shall expire on July 1, 1996, provided the following conditions have been met:

(1) The Environmental Management Commission has reclassified the area affected by this act to a classification other than WS II or WS I and the critical area has been removed;

(2) The General Assembly has provided by legislation:

(i) For a definition of "water supply";

(ii) For a definition of "critical water supply watersheds" as used in G.S. 143-214.5(b);

(iii) For a definition of "performance-based alternatives to development density controls" as used in G.S. 143-214.5;

(iv) For making clear whether the provision in G.S. 143-215.2(a) that that section does not apply to agricultural operations applies to the entire water supply watershed protection laws;

(v) For correcting the wrong references found in Session Laws 1989, Chapter 426, Section 5(a) and Session Laws 1991, Chapter 471, Section 1 which refer to G.S. 143-214.4(b);

(vi) For specifying that guidelines for water supply watershed management shall be consistent with stated goals for such management, for setting specific standards to be followed by the Environmental Management Commission in adopting water supply watershed classifications and for making rules and regulations governing the public and private use of lands and waters within classified areas;

(vii) That any rules restricting agricultural use of lands or waters shall specifically include appropriate connections between acreage involved and height and slope of lands involved with such necessary restrictions to fit different classifications;

(viii) For judicial review of any order, classification, rule, or regulation of the Environmental Management Commission for any person having a recorded interest or interest by operation of law in or registered claim to land within an area affected by such order, classification, rule, or regulation as now set forth in G.S. 113A-123(b) and (c);

(ix) For protection of landowners' rights as set forth in G.S. 113A-128;

(x) That drinking water from a water supply watershed can be distributed only in an area downstream from such water supply watershed except where the entire water supply watershed is owned by one or more governmental entities;

(3) The Environmental Management Commission has amended its rules and regulations to provide:

(i) That no rule or regulation, federal or State, shall be included therein by reference, whether current or adopted later, as set out in 15A NCAC 2B .0101(f) where such rules incorporate 40 CFR 131.10(b), (c), (d), and (g) by reference "including any subsequent amendment and editions";

(ii) A clear definition of "Best Management Practice" as now appears in 15A NCAC 2B .0202(6);

(iii) That references to and use of the Federal Water Pollution Control Act be eliminated from the rules and regulations as a standard upon which to base water quality based effluent limits and best management practices related to water supply watershed protection, as now set forth in 15A NCAC 2B .0202(55).

Sec. 3. G.S. 158-7.1(b) is amended by adding a new subdivision to read:

"(6) A county or city may extend, or may provide for or assist in the extension of, water and sewer lines to industrial properties and facilities, whether the industrial property or facility is publicly or privately owned."

Sec. 4. G.S. 158-7.1(d1) reads as rewritten:

"(d1) In arriving at the amount of consideration that it receives, the Board may take into account prospective tax revenues from improvements to be constructed on the property, prospective sales tax revenues to be generated in the area, as well as any other prospective tax revenues or income coming to the county or city over the next 10 years as a result of the conveyance or lease provided the following conditions are met:

(1) The governing board of the county or city shall determine that the conveyance of the property will stimulate the local economy, promote business, and result in the creation of a substantial number of jobs in the county or city.

(2) The governing board of the county or city shall contractually bind the purchaser of the property to construct improvements on the property within a specified period of time, not to exceed 10 years, which improvements are sufficient to generate the tax revenue taken into account in arriving at the consideration. Upon failure to construct the improvements specified in the contract, the purchaser shall reconvey the property back to the county or city.

This subsection applies to the Cities of Angier, Brevard, Broadway, Burnsville, Charlotte, Clinton, Coats, Concord, Connelly Springs, Conover, ~~High Point,~~ Drexel, Dunn, Erwin, Glen Alpine, Granite Falls, Greensboro, High Point, Hildebran, Hot Springs, Kannapolis, Lillington, Marion, Mars Hill, Marshall, Monroe, Mocksville, Mooresville, Morganton, Mount Airy, Old Fort, Rhodhiss, Rocky Mount, St. Pauls, Sanford, Selma, Smithfield, Statesville, Troutman, Valdese, and Winston-Salem, and the Counties of Alleghany, Ashe, Burke, Cabarrus, Clay, Cleveland, Davie, Forsyth, Franklin, Guilford, Harnett, Henderson, Iredell, Johnston, Lee, McDowell, Madison, Mecklenburg, Nash, Polk, Richmond, Rockingham, Sampson, Transylvania, Wayne, and Yancey. This subsection also applies to Columbus County and all incorporated municipalities located therein."

Sec. 5. Sections 3 and 4 of this act applies to the City of Brevard and to Clay, Henderson and Transylvania Counties only. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 865 **CHAPTER 521**

AN ACT TO CLARIFY THAT THE PLAN FOR ELECTION OF THE GUILFORD COUNTY BOARD OF COMMISSIONERS ENACTED BY THE 1991 GENERAL ASSEMBLY IS THE ONLY LAWFUL PLAN, AND TO EXTEND THE TIME FOR ACTION ON AN ACT CONCERNING THE SAMPSON COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136, Session Laws of 1991, is reenacted.

Sec. 2. Section 1 of this act supersedes any previous action under G.S. 153A-22.

Sec. 3. Section 2 of Chapter 600 of the 1991 Session Laws is amended by deleting: "If this ratified act receives, before the beginning of the filing period for notices of candidacy for the 1992 elections, whatever approval from whatever authority of the federal government is legally necessary for its implementation,", and substituting: "If this ratified act does not receive, before the beginning of the filing period for notices of candidacy for the 1994 elections, whatever approval from whatever authority of the federal government is legally necessary for its implementation, but does receive such approval by the beginning of the filing period for notices of candidacy for the 1996 elections,".

Sec. 4. Section 2(c) of Chapter 989 of the 1989 Session Laws, as conditionally amended by Section 2 of Chapter 600 of the 1993 Session Laws, reads as rewritten:

"(c) In ~~1992,~~ 1996, the two at-large members of the board shall be elected in a two-seat contest. The candidate with the highest number of votes in the general election shall serve a four-year term and the candidate with the second highest number of votes shall serve a transitional two-year term. In subsequent elections, the two at-large members shall be elected to four-year terms on a staggered basis."

Sec. 5. Section 4 of Chapter 600 of the 1993 Session Laws reads as rewritten:

"Sec. 4. This act is effective upon ratification; provided that Section 1 of this act shall be implemented according to Section 2 or Section 3 of this act, whichever section applies; provided further that, if the method of election provided in Section 2 or Section 3 of this act is disapproved after ratification by whatever authority of the federal government controls final approval of this act, but the election of the two additional members provided by Section 1 of this act is approved at-large for unstaggered terms by whatever authority of the federal government controls final approval of this act, then the two at-large members of the Board of Commissioners added by this act shall be elected to four-year terms in a two-seat race in ~~1994~~ 1996 and every four years thereafter."

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 935 **CHAPTER 522**

AN ACT TO DELETE THE REFERENCES TO THE DEPARTMENT OF PUBLIC EDUCATION.

Whereas, a Department of Public Education was created in the Executive Reorganization Act of 1971; and

Whereas, the Department of Public Education is the only department created in the Executive Reorganization Act of 1971 that never had staff positions funded by the General Assembly; and

Whereas, the Department of Public Instruction was organized and established pursuant to G.S. 115C-21(a)(1); and

Whereas, the functions of the Department of Public Education have been and continue to be performed by the Department of Public Instruction under the supervision of the Superintendent of Public Instruction, and

Whereas, the current references in the General Statutes to the Department of Public Education and the Department of Public Instruction have resulted in confusion about the respective roles of the State Board of Education and the Superintendent that resulted in litigation between them; and

Whereas, the General Assembly is authorized under Article IX, Sections 2 and 5, and Article III, Section 7(1) and (2), of the Constitution to enact legislation defining the respective roles of the State Board of Education and the Superintendent of Public Instruction under the Constitution; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-21(b)(1a) reads as rewritten:

"(1a) To administer the funds appropriated ~~to the Department of Public Education~~ for the operations of the State Board of Education and for aid to local school administrative units."

Sec. 2. G.S. 115C-146.3(b) reads as rewritten:

"(b) The ~~Department of Public Education~~ State Board of Education shall cause local school administrative units to make available special education and related services to all preschool handicapped children whose parents or guardians request these services."

Sec. 3. G.S. 115C-238.2(b)(1) reads as rewritten:

"(1) Are exempt from State requirements to submit reports and plans, other than local school improvement plans, to the ~~Department of Public Education; they~~ State Board of Education and the Department of Public Instruction. They are not exempt from federal requirements to submit reports and plans to the Department."

Sec. 4. G.S. 115C-318 reads as rewritten:

"§ *115C-318. Liability insurance for nonteaching public school personnel.*

~~The Department of Public Education and the~~ The State Board of Education shall provide for liability insurance for nonteaching public school personnel to the extent that such personnel's salaries are funded by the State. The insurance shall cover claims made for injury liability and property damage liability on account of an act done or an omission made in the course of the employee's duties. As provided by law or the rules and policies of the ~~Department of Public Education~~ State Board of Education or the local school administrative unit, the ~~Department and~~ State Board of Education shall comply with the State's laws in securing the insurance and shall provide it at the earliest possible date for the 1982-83 school year. Funds for this purpose shall be allocated from the State's Contingency and Emergency Fund.

Nothing in this section shall prevent ~~the Department and~~ the State Board from furnishing the same liability insurance protection for nonteaching public school personnel not supported by State funds, provided that the cost of the protection shall be funded from the same source that supports the salaries of these employees."

Sec. 5. G.S. 115C-489.4(a) reads as rewritten:

"(a) There is created the Commission on School Facility Needs. The Commission shall be located administratively in the Department of Public ~~Education~~ Instruction but shall exercise all its prescribed statutory powers independently of the State Board of Education and the Department of Public Instruction."

The Commission shall consist of five members appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121, one of whom shall be recommended by the President of the Senate to serve as cochairman, and five members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, one of whom shall be recommended by the Speaker of the House of Representatives to serve as cochairman.

The initial terms of members shall expire July 1, 1991. Their successors shall serve for four-year terms. A vacancy shall be filled for the remainder of the unexpired term in accordance with G.S. 120-122.

The initial meeting of the Commission shall be called jointly by the cochairmen.

Members of the Commission who are not State officers or employees shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5. Members who are State officers or employees shall be reimbursed for travel and subsistence in accordance with G.S. 138-6.

The Department of Public Instruction shall provide requested professional and clerical staff to the Commission. The Commission may also employ professional and clerical staff and may hire outside consultants to assist it in its work."

Sec. 6. G.S. 115D-3 reads as rewritten:

"*§ 115D-3. Department of Community Colleges; staff.*

The Department of Community Colleges shall be a principal administrative department of State government under the direction of the State Board of Community Colleges, and shall be separate from the free public school system of the ~~State and the Department of Public Education.~~ State, the State Board of Education, and the Department of Public Instruction. The State Board has authority to

adopt and administer all policies, regulations, and standards which it deems necessary for the operation of the Department.

The State Board shall elect a President of the North Carolina System of Community Colleges who shall serve as chief administrative officer of the Department of Community Colleges. The compensation of this position shall be fixed by the State Board from funds provided by the General Assembly in the Current Operations Appropriations Act.

The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on nomination of the President. The compensation of the staff members elected by the Board shall be fixed by the State Board of Community Colleges, upon recommendation of the President of the Community College System, from funds provided in the Current Operations Appropriations Act. These staff members shall include such officers as may be deemed desirable by the President and State Board. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the State Board. In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter, who shall be subject to the provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the State Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. The State Board of Community Colleges shall have all other powers, duties, and responsibilities delegated to the State Board of Education affecting the Department of Community Colleges not otherwise stated in this Chapter."

Sec. 7. G.S. 120-65 reads as rewritten:

"§ *120-65. Assistance of Department of Human ~~Resources and Department of Public Education.~~ Resources, State Board of Education, and Department of Public Instruction.*

The Department of Human ~~Resources and the Department of Public Education~~ Resources, the State Board of Education, and the Department of Public Instruction are ~~hereby declared~~ vital departments of State government to ~~especially~~ assist ~~said~~ especially the Commission and to furnish ~~them~~ it with information, and to the extent permitted by

the Commission, to ~~actively~~ participate actively in the work and deliberations of the Commission."

Sec. 8. G.S. 121-4(5) reads as rewritten:

"(5) With the cooperation of the ~~Department of Public Education,~~ State Board of Education and the Department of Public Instruction to develop, conduct, and assist in the coordination of a program for the better and more adequate teaching of State and local history in the public schools and the institutions of the community college system of North Carolina, including, as appropriate, the preparation and publication of suitable histories of all counties and of other appropriate materials, the distribution of such materials to the public schools and community college system for a reasonable charge, and the coordination of this program throughout the State."

Sec. 9. G.S. 122C-113(b1) reads as rewritten:

"(b1) The Secretary shall cooperate with the State Board of Education in coordinating the responsibilities of the Department of Human ~~Resources and of the Department of Public Education~~ Resources, the State Board of Education, and the Department of Public Instruction for adolescent substance abuse programs. The Department of Human Resources, through its Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall be responsible for intervention and treatment in non-school based programs. The ~~Department of Public Education~~ State Board of Education and the Department of Public Instruction shall have primary responsibility for in-school education, identification, and intervention services, including student assistance programs."

Sec. 10. G.S. 126-4(7) reads as rewritten:

"(7) Cooperation with the ~~Department of Public Education,~~ State Board of Education, the Department of Public Instruction, the University of North Carolina, and the Community Colleges of the State and other appropriate resources in developing programs in, including but not limited to, management and supervisory skills, performance evaluation, specialized employee skills, accident prevention, equal employment opportunity awareness, and customer service; and to maintain an accredited Certified Public Manager program."

Sec. 11. G.S. 130A-236 reads as rewritten:

"§ *130A-236. Regulation of sanitation in schools.*

For the protection of the public health, the Commission shall adopt rules to establish sanitation requirements for public, private and religious schools. The rules shall address, but not be limited to, the

cleanliness of floors, walls, ceilings, storage spaces and other areas; adequacy of lighting, ventilation, water supply, toilet and lavatory facilities; sewage collection, treatment and disposal facilities; and solid waste disposal. The Department shall inspect schools at least annually. The Department shall submit written inspection reports of public schools to the ~~Department of Public Education~~ State Board of Education and written inspection reports of private and religious schools to the Department of Administration."

Sec. 12. G.S. 143A-11 reads as rewritten:

"§ *143A-11. Principal departments.*

Except as otherwise provided by this Chapter, or the State Constitution, all executive and administrative powers, duties and functions, not including those of the General Assembly and the judiciary, previously vested by law in the several State agencies, are vested in the following principal offices or departments:

(1) Office of the Governor.
(2) Office of the Lieutenant Governor.
(3) Department of the Secretary of State.
(4) Department of State Auditor.
(5) Department of State Treasurer.
(6) Department of Public ~~Education.~~ Instruction.
(7) Department of Justice.
(8) Department of Agriculture.
(9) Department of Labor.
(10) Department of Insurance.
(11) Department of Administration.
(12) Department of Transportation.
(13) Department of Environment, Health, and Natural Resources.
(14) Repealed by Session Laws 1973, c. 476, s. 6.
(15) Department of Social Rehabilitation and Control.
(16) Department of Commerce.
(17), (18) Repealed by Session Laws 1973, c. 476, s. 6.
(19) Repealed by Session Laws 1973, c. 620, s. 9."

Sec. 13. The name of Article 5 of Chapter 143A of the General Statutes reads as rewritten:

"ARTICLE 5.

"Department of Public ~~Education.~~ Instruction."

Sec. 14. G.S. 143A-39, 143A-40, 143A-41, 143A-42 and 143A-44 are repealed.

Sec. 15. G.S. 143A-48 reads as rewritten:

"§ *143A-48. Textbook Commission; transfer.*

The Textbook Commission, as created by G.S. 115C-87 and the laws of this State, is hereby transferred by a Type I transfer to the Department of Public ~~Education.~~ Instruction."

Sec. 16. G.S. 143B-181 reads as rewritten:

"*§ 143B-181. Governor's Advisory Council on Aging -- members; selection; quorum; compensation.*

The Governor's Advisory Council on Aging of the Department of Human Resources shall consist of 33 members, 29 members to be appointed by the Governor, two members to be appointed by the Lieutenant Governor, and two members to be appointed by the Speaker of the House of Representatives. The composition of the Council shall be as follows: one representative of the Department of Administration; one representative of the Department of Cultural Resources; one representative of the Employment Security Commission; one representative of the Teachers' and State Employees' Retirement System; one representative of the Commissioner of Labor; one representative of the Department of Public ~~Education;~~ Instruction; one representative of the Department of Environment, Health, and Natural Resources; one representative of the Department of Insurance; one representative of the Department of Crime Control and Public Safety; one representative of the Department of Community Colleges; one representative of the School of Public Health of The University of North Carolina; one representative of the School of Social Work of The University of North Carolina; one representative of the Agricultural Extension Service of North Carolina State University; one representative of the collective body of the Medical Society of North Carolina; and 19 members at large. The at large members shall be citizens who are knowledgeable about services supported through the Older Americans Act of 1965, as amended, and shall include persons with greatest economic or social need, minority older persons, and participants in programs under the Older Americans Act of 1965, as amended. The Governor shall appoint 15 members at large who meet these qualifications and are 60 years of age or older. The four remaining members at large, two of whom shall be appointed by the Lieutenant Governor and two of whom shall be appointed by the Speaker of the House of Representatives, shall be broadly representative of the major private agencies and organizations in the State who are experienced in or have demonstrated particular interest in the special concerns of older persons. At least one of each of the at-large appointments of the Lieutenant Governor and the Speaker of the House of Representatives shall be persons 60 years of age or older. The Council shall meet at least quarterly.

Members at large shall be appointed for four-year terms and until their successors are appointed and qualify. *Ad interim* appointments shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate one member of the Council as chairman to serve in such capacity at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Human Resources."

Sec. 17. G.S. 143B-417(1) reads as rewritten:

"(1) To determine the number of student interns to be allocated to each of the following offices or departments:

a. Office of the Governor
b. Department of Administration
c. Department of Correction
d. Department of Cultural Resources
e. Department of Revenue
f. Department of Transportation
g. Department of Environment, Health, and Natural Resources
h. Department of Commerce
i. Department of Crime Control and Public Safety
j. Department of Human Resources
k. Office of the Lieutenant Governor
l. Office of the Secretary of State
m. Office of the State Auditor
n. Office of the State Treasurer
o. Department of Public ~~Education~~ Instruction
p. Repealed by Session Laws 1985, c. 757, s. 162, effective July 1, 1985
q. Department of Agriculture
r. Department of Labor
s. Department of Insurance
t. Office of the Speaker of the House of Representatives
u. Justices of the Supreme Court and Judges of the Court of Appeals
v. Department of Community Colleges
w. Office of State Personnel

x. Office of the Senate President Pro Tempore;".

Sec. 18. G.S. 147-45 reads as rewritten:

"§ *147-45. Distribution of copies of State publications.*

The Secretary of State shall, at the State's expense, as soon as possible after publication, provide such number of copies of the Session Laws and Senate and House Journals to federal, State, and local governmental officials, departments and agencies, and to educational institutions of instruction and exchange use, as is set out in the table below:

Agency or Institution	Session Laws	Assembly Journals
Governor, Office of the	3	2
Lieutenant Governor, Office of the	1	1
Secretary of State, Department of the	3	3
Auditor, Department of the State	3	1
Treasurer, Department of the State	3	1
Local Government Commission	2	0
~~Public Education, Department of~~	~~1~~	~~0~~
~~Superintendent of Public Instruction~~	~~3~~	~~1~~
~~Controller~~	~~1~~	~~0~~
~~Division of Community Colleges~~	~~3~~	~~1~~
~~Regional Service Centers~~	~~1 ea.~~	~~0~~
State Board of Education	1	0
Department of Public Instruction	3	1
Controller	1	0
Technical Assistance Centers	1 ea.	0
Department of Community Colleges	3	1
Justice, Department of		
Office of the Attorney General	25	3
Budget Bureau (Administration)	1	0
Property Control (Administration)	1	1
State Bureau of Investigation	1	0
Agriculture, Department of	3	1
Labor, Department of	5	1
Insurance, Department of	5	1
Administration, Department of	1	1
Budget Bureau	2	1
Controller	1	0
Property Control	1	0
Purchase and Contract	2	0
Policy and Development	1	0
Veterans Affairs Commission	1	0
Environment, Health, and Natural		

Resources, Department of	1	0
Division of Environmental Management	2	0
Board of Environment, Health, and Natural Resources	1	0
Soil and Water Conservation Commission	1	0
Wildlife Resources Commission	2	0
Revenue, Department of	5	1
Human Resources, Department of	3	0
Board of Human Resources	1	0
Health Services, Division of	3	0
Mental Health, Developmental Disabilities, and Substance Abuse Services, Division of	1	0
Social Services, Division of	3	0
Facilities Services, Division of	1	0
Youth Services, Division of	1	0
Hospitals and Institutions	1 ea.	0
Transportation, Department of	1	0
Board of Transportation	3	0
Motor Vehicles, Division of	1	0
Commerce, Department of	1	0
Economic Development, Division of	2	0
State Ports Authority	1	0
Alcoholic Beverage Control Commission, North Carolina	2	0
Banking Commission	2	0
Utilities Commission	8	1
Industrial Commission	7	0
Labor Force Development Council	1	0
Milk Commission	5	0
Employment Security Commission	1	1
Correction, Department of	1	0
Department of Correction	2	0
Parole Commission	2	0
State Prison	1	0
Correctional Institutions	1 ea.	0
Cultural Resources, Department of	1	0
Archives and History, Division of	5	1
State Library	5	5
Publications Division	1	1
Crime Control and Public Safety, Department of	2	1
North Carolina Crime Commission	1	0
Adjutant General	2	0
Elections, State Board of	2	0

Office of Administrative Hearings	2	0
Legislative Branch		
State Senators	1 ea.	1 ea.
State Representatives	1 ea.	1 ea.
Principal Clerk -- Senate	1	1
Principal Clerk -- House	1	1
Reading Clerk -- Senate	1	1
Reading Clerk -- House	1	1
Sergeant at Arms -- House	1	1
Sergeant at Arms -- Senate	1	1
Enrolling Clerk	1	0
Engrossing Clerk	1	0
Indexer of the Laws	1	0
Legislative Building Library	35	15
Judicial System		
Justices of the Supreme Court	1 ea.	1 ea.
Judges of the Court of Appeals	1 ea.	1 ea.
Judges of the Superior Court	1 ea.	0
Emergency and Special Judges of the Superior Court	1 ea.	0
District Court Judges	1 ea.	0
District Attorneys	1 ea.	0
Clerk of the Supreme Court	1	1
Clerk of the Court of Appeals	1	1
Administrative Office of the Courts	4	1
Supreme Court Library	AS MANY AS REQUESTED	
Colleges and Universities		
The University North Carolina System		
Administrative Offices	3	0
University of North Carolina, Chapel Hill	65	25
University of North Carolina, Charlotte	3	1
University of North Carolina, Greensboro	3	1
University of North Carolina, Asheville	2	1
University of North Carolina, Wilmington	2	1
North Carolina State University, Raleigh	5	3
Appalachian State University	2	1
East Carolina University	3	2
Elizabeth City State University	2	1
Fayetteville State University	2	1
North Carolina Agricultural and Technical University	2	1
North Carolina Central University	5	5
Western Carolina University	2	1
Pembroke State University	2	1

Winston-Salem State University	2	1
North Carolina School of the Arts	1	1
Private Institutions		
Duke University	6	6
Davidson College	3	2
Wake Forest University	5	5
Lenoir Rhyne College	1	1
Elon College	1	1
Guilford College	1	1
Campbell College	5	5
Wingate College	1	1
Pfeiffer College	1	1
Barber Scotia College	1	1
Atlantic Christian College	1	1
Shaw University	1	1
St. Augustine's College	1	1
J.C. Smith University	1	1
Belmont Abbey College	1	1
Bennett College	1	1
Catawba College	1	1
Gardner-Webb College	1	1
Greensboro College	1	1
High Point College	1	1
Livingstone College	1	1
Mars Hill College	1	1
Meredith College	1	1
Methodist College	1	1
North Carolina Wesleyan College	1	1
Queens College	1	1
Sacred Heart College	1	1
St. Andrews Presbyterian College	1	1
Salem College	1	1
Warren Wilson College	1	1
County and Local Officials		
Clerks of the Superior Court	1 ea.	1 ea.
Register of Deeds	1 ea.	1 ea.
Federal, Out-of-State and Foreign		
Secretary to the President	1	0
Secretary of State	1	1
Secretary of Defense	1	0
Secretary of Agriculture	1	0
Secretary of the Interior	1	0
Secretary of Labor	1	1
Secretary of Commerce	1	1

Secretary of the Treasury	1	0
Secretary of Health, Education and Welfare	1	0
Secretary of Housing and Urban Development	1	0
Secretary of Transportation	1	0
Attorney General	1	0
Postmaster General	1	0
Bureau of Census	1	0
Bureau of Public Roads	1	0
Department of Justice	1	0
Department of Internal Revenue	1	0
Veterans' Administration	1	0
Farm Credit Administration	1	0
Securities and Exchange Commission	1	0
Social Security Board	1	0
Environmental Protection Agency	1	0
Library of Congress	8	2
Federal Judges resident in North Carolina	1 ea.	0
Federal District Attorneys resident in North Carolina	1 ea.	0
Marshal of the United States Supreme Court	1	0
Federal Clerks of Court resident in North Carolina	1 ea.	0
Supreme Court Library exchange list	1 ea.	0

One copy of the Session Laws shall be furnished the head of any department of State government created in the future.

State agencies, institutions, etc., not found in or covered by this list may, upon written request from their respective department head to the Secretary of State, and upon the discretion of the Secretary of State as to need, be issued copies of the Session Laws on a permanent loan basis with the understanding that should said copies be needed they will be recalled."

Sec. 19. Section 86(g) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(g) Of the funds appropriated to the Board of Governors for the 1993-94 fiscal year, up to the sum of fifteen thousand dollars ($15,000) shall be used to conduct the work of the Joint Committee. Of the funds appropriated ~~to the Department of Public Education~~ for aid to local school administrative units for the 1993-94 fiscal year, up to the sum of fifteen thousand dollars ($15,000) shall be used to conduct the work of the Joint Committee."

Sec. 20. G.S. 115C-102.5, as enacted in Section 135(a) of Chapter 321 of the 1993 Session Laws, reads as rewritten:

"(a) There is created the Commission on School Technology. The Commission shall be located administratively in the Department of Public ~~Education~~ Instruction but shall exercise all its prescribed

statutory powers independently of the ~~State Board of Education and the~~ Department of Public Instruction."

Sec. 21. Section 208(c) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(c) Funds for ~~Department of Public Education.~~ Aid to Local School Administrative Units. -- Funds appropriated to ~~the Department of Public Education~~ Aid to Local School Administrative Units in this act for members of the Willie M. Class are to establish a supplemental reserve fund to serve only members of the class identified in Willie M., et al. v. Hunt, et al., formerly Willie M., et al. v. Martin, et al. These funds shall be allocated by the State Board of Education to the local education agencies to serve those class members who were not included in the regular average daily membership and the census of children with special needs, and to provide the additional program costs which exceed the per pupil allocation from ~~the State Public School Fund~~ Aid to Local School Administrative Units and other State and federal funds for children with special needs."

Sec. 22. Section 208(e) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(e) Reporting Requirements. -- The Department of Human ~~Resources and the Department of Public Education~~ Resources, the State Board of Education, and the Department of Public Instruction shall submit, by May 1 of each fiscal year, a joint report to the Governor and the General Assembly on the progress achieved in serving members of the Willie M. Class. The report shall include the following unduplicated data for each county: (i) the number of children nominated for the Willie M. Class; (ii) the number of children actually identified as members of the Class in each county; (iii) the number of children served as members of the Class in each county; (iv) the number of children who remain unserved or for whom additional services are needed in order to be determined to be appropriately served; (v) the types and locations of treatment and education services provided to Class members; (vi) the cost of services, by type, to members of the Class and the maximum and minimum rates paid to providers for each service; (vii) the number of cases whose treatment costs were in excess of one hundred fifty percent (150%) of the average annual per client expenditure; (viii) information on the impact of treatment and education services on members of the Class; (ix) an explanation of, and justification for, any waiver of departmental rules that affect the Willie M. program; and (x) the total State funds expended, by program, on Willie M. Class members, other than those funds specifically appropriated for the Willie M. programs and services."

Sec. 23. Section 208(f) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(f) The ~~Departments of Human Resources and Public Education~~ Department of Human Resources, the State Board of Education, and the Department of Public Instruction shall provide periodic reports of expenditures and program effectiveness on behalf of the Willie M. Class and to the Fiscal Research Division. As part of these reports, the Departments shall explain measures they have taken to control and reduce program expenditures."

Sec. 24. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 1043 **CHAPTER 523**

AN ACT TO CLARIFY THE LAW REGARDING THE HEALTH CARE POWER OF ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 32A-15 reads as rewritten:

"§ *32A-15. General purpose of this Article.*

(a) The General Assembly recognizes as a matter of public policy the fundamental right of an individual to control the decisions relating to his or her medical care, and that this right may be exercised on behalf of the individual by an agent chosen by the individual.

(b) The purpose of this Article is to establish an additional, nonexclusive method for an individual to exercise his or her right to give, withhold, or withdraw consent to medical treatment when the individual lacks sufficient understanding or capacity to make or communicate health care decisions.

(c) This Article is intended and shall be construed to be consistent with the provisions of Article 23 of Chapter 90 of the General Statutes provided that in the event of a conflict between the provisions of this Article and Article 23 of Chapter 90, the provisions of Article 23 of Chapter 90 ~~shall~~ control. If no declaration has been executed by the principal as provided in G.S. 90-321 that expressly covers the principal's present condition and if the health care agent has been given the specific authority in a health care power of attorney to authorize the withholding or discontinuing of life-sustaining procedures when the principal is in the present condition, these procedures may be withheld or discontinued as provided in the health care power of attorney upon the direction and under the supervision of the attending physician. In this case, G.S. 90-322 does not apply.

(d) This Article is intended and shall be construed to be consistent with the provisions of Part 3 of Article 16 of Chapter 130A of the General Statutes. In the event of a conflict between the provisions of this Article and Part 3 of Article 16 of Chapter 130A, the provisions of Part 3 of Article 16 of Chapter 130A control."

Sec. 2. G.S. 32A-20 reads as rewritten:

"*§ 32A-20. Effectiveness and duration; revocation.*

(a) A health care power of attorney shall become effective when and if the physician or physicians designated by the principal determine in writing that the principal lacks sufficient understanding or capacity to make or communicate decisions relating to the health care of the principal, and shall continue in effect during the incapacity of the principal. The determination shall be made by the principal's attending physician if the physician or physicians designated by the principal is unavailable or is otherwise unable or unwilling to make ~~such determination.~~ this determination or if the principal failed to designate a physician or physicians to make this determination. A health care power of attorney may include a provision that, if the principal does not designate a physician for reasons based on his religious or moral beliefs as specified in the health care power of attorney, a person designated by the principal in the health care power of attorney may certify in writing, acknowledged before a notary public, that the principal lacks sufficient understanding or capacity to make or communicate decisions relating to his health care. The person so designated must be a competent person 18 years of age or older, not engaged in providing health care to the principal for remuneration, and must be a person other than the health care agent.

(b) ~~A health care power of attorney shall be revoked by the death of the principal and may be revoked by the principal at any time, so long as the principal is capable of making and communicating health care decisions. The principal may exercise such right of revocation by executing and acknowledging an instrument of revocation, by executing and acknowledging a subsequent health care power of attorney, or in any other manner by which the principal is able to communicate his or her intent to revoke. Such revocation shall become effective only upon communication by the principal to each health care agent named in the revoked health care power of attorney and to the principal's attending physician.~~ A health care power of attorney is revoked by the death of the principal. A health care power of attorney may be revoked by the principal at any time, so long as the principal is capable of making and communicating health care decisions. The principal may exercise this right of revocation by executing and acknowledging an instrument of revocation, by executing and acknowledging a subsequent health care power of

attorney, or in any other manner by which the principal is able to communicate an intent to revoke. This revocation becomes effective only upon communication by the principal to each health care agent named in the revoked health care power of attorney and to the principal's attending physician.

(c) The authority of a health care agent who is the spouse of the principal shall be revoked upon the entry by a court of a decree of divorce or separation between the principal and the health care agent; provided that if the health care power of attorney designates a successor health care agent, the successor shall serve as the health care agent, and the health care power of attorney shall not be revoked."

Sec. 3. G.S. 32A-25 reads as rewritten:

"*§ 32A-25. Statutory form health care power of attorney.*

The use of the following form in the creation of a health care power of attorney is lawful and, when used, it shall meet the requirements of and be construed in accordance with the provisions of this Article:

'(Notice: This document gives the person you designate your health care agent broad powers to make health care decisions for you, including the power to consent to your doctor not giving treatment or stopping treatment necessary to keep you alive. This power exists only as to those health care decisions for which you are unable to give informed consent.

This form does not impose a duty on your health care agent to exercise granted powers, but when a power is exercised, your health care agent will have to use due care to act in your best interests and in accordance with this document. Because the powers granted by this document are broad and sweeping, you should discuss your wishes concerning life-sustaining procedures with your health care agent.

Use of this form in the creation of a health care power of attorney is lawful and is authorized pursuant to North Carolina law. However, use of this form is an optional and nonexclusive method for creating a health care power of attorney and North Carolina law does not bar the use of any other or different form of power of attorney for health care that meets the statutory requirements.)

1. Designation of health care agent.

I,....., being of sound mind, hereby appoint

Name:.....

Home Address:.....

Home Telephone Number.....Work Telephone Number.....

as my health care attorney-in-fact (herein referred to as my 'health care agent') to act for me and in my name (in any way I could act in person) to make health care decisions for me as authorized in this document.

If the person named as my health care agent is not reasonably available or is unable or unwilling to act as my agent, then I appoint the following persons (each to act alone and successively, in the order named), to serve in that capacity: (Optional)

A. Name:.....
Home Address:.....
Home Telephone Number.....Work Telephone Number.....

B. Name:.....
Home Address:.....
Home Telephone Number.....Work Telephone Number.....

Each successor health care agent designated shall be vested with the same power and duties as if originally named as my health care agent.

2. Effectiveness of appointment.

(Notice: This health care power of attorney may be revoked by you at any time in any manner by which you are able to communicate your intent to revoke to your health care agent and your attending physician.)

Absent revocation, the authority granted in this document shall become effective when and if the physician or physicians designated below determine that I lack sufficient understanding or capacity to make or communicate decisions relating to my health care and will continue in effect during my incapacity, until my death. This determination shall be made by the following physician or physicians (You may include here a designation of your choice, including your attending physician, or any other physician. You may also name two or more physicians, if desired, both of whom must make this determination before the authority granted to the health care agent becomes effective.):

.....
.....
.....
.....
.....
.....

3. General statement of authority granted.

Except as indicated in section 4 below, I hereby grant to my health care agent named above full power and authority to make health care decisions on my behalf, including, but not limited to, the following:

A. To request, review, and receive any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records, and to consent to the disclosure of this information.

B. To employ or discharge my health care providers.

C. To consent to and authorize my admission to and discharge from a hospital, nursing or convalescent home, or other institution.

D. To give consent for, to withdraw consent for, or to withhold consent for, X ray, anesthesia, medication, surgery, and all other diagnostic and treatment procedures ordered by or under the authorization of a licensed physician, dentist, or podiatrist. This authorization specifically includes the power to consent to measures for relief of pain.

E. To authorize the withholding or withdrawal of life-sustaining procedures when and if my physician determines that I am terminally ill, permanently in a coma, suffer severe dementia, or am in a persistent vegetative state. Life-sustaining procedures are those forms of medical care that only serve to artificially prolong the dying process and may include mechanical ventilation, dialysis, antibiotics, artificial nutrition and hydration, and other forms of medical treatment which sustain, restore or supplant vital bodily functions. Life-sustaining procedures do not include care necessary to provide comfort or alleviate pain.

I DESIRE THAT MY LIFE NOT BE PROLONGED BY LIFE-SUSTAINING PROCEDURES IF I AM TERMINALLY ILL, PERMANENTLY IN A COMA, SUFFER SEVERE DEMENTIA, OR AM IN A PERSISTENT VEGETATIVE STATE.

F. To exercise any right I may have to make a disposition of any part or all of my body for medical purposes, to donate my organs, to authorize an autopsy, and to direct the disposition of my remains.

G. To take any lawful actions that may be necessary to carry out these decisions, including the granting of releases of liability to medical providers.

4. Special provisions and limitations.

(Notice: The above grant of power is intended to be as broad as possible so that your health care agent will have authority to make any decisions you could make to obtain or terminate any type of health care. If you wish to limit the scope of your health care agent's powers, you may do so in this section.)

In exercising the authority to make health care decisions on my behalf, the authority of my health care agent is subject to the following special provisions and limitations (Here you may include any specific limitations you deem appropriate such as: your own definition of when life-sustaining treatment should be withheld or discontinued, or

instructions to refuse any specific types of treatment that are inconsistent with your religious beliefs, or unacceptable to you for any other reason.):

.....
.....
.....
.....
.....
.....

5. Guardianship provision.

If it becomes necessary for a court to appoint a guardian of my person, I nominate my health care agent acting under this document to be the guardian of my person, to serve without bond or security.

6. Reliance of third parties on health care agent.

A. No person who relies in good faith upon the authority of or any representations by my health care agent shall be liable to me, my estate, my heirs, successors, assigns, or personal representatives, for actions or omissions by my health care agent.

B. The powers conferred on my health care agent by this document may be exercised by my health care agent alone, and my health care agent's signature or act under the authority granted in this document may be accepted by persons as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf. All acts performed in good faith by my health care agent pursuant to this power of attorney are done with my consent and shall have the same validity and effect as if I were present and exercised the powers myself, and shall inure to the benefit of and bind me, my estate, my heirs, successors, assigns, and personal representatives. The authority of my health care agent pursuant to this power of attorney shall be superior to and binding upon my family, relatives, friends, and others.

7. Miscellaneous provisions.

A. I revoke any prior health care power of attorney.

B. My health care agent shall be entitled to sign, execute, deliver, and acknowledge any contract or other document that may be necessary, desirable, convenient, or proper in order to exercise and carry out any of the powers described in this document and to incur reasonable costs on my behalf incident to the exercise of these powers; provided, however, that except as shall be necessary in order to exercise the powers described in this document relating to my health

care, my health care agent shall not have any authority over my property or financial affairs.

C. My health care agent and my health care agent's estate, heirs, successors, and assigns are hereby released and forever discharged by me, my estate, my heirs, successors, and assigns and personal representatives from all liability and from all claims or demands of all kinds arising out of the acts or omissions of my health care agent pursuant to this document, except for willful misconduct or gross negligence.

D. No act or omission of my health care agent, or of any other person, institution, or facility acting in good faith in reliance on the authority of my health care agent pursuant to this health care power of attorney shall be considered suicide, nor the cause of my death for any civil or criminal purposes, nor shall it be considered unprofessional conduct or as lack of professional competence. Any person, institution, or facility against whom criminal or civil liability is asserted because of conduct authorized by this health care power of attorney may interpose this document as a defense.

8. Signature of principal.

By signing here, I indicate that I am mentally alert and competent, fully informed as to the contents of this document, and understand the full import of this grant of powers to my health care agent.

....

Signature of Principal Date

'(SEAL)'

9. Signatures of Witnesses.

I hereby state that the Principal,....., being of sound mind, signed the foregoing health care power of attorney in my presence, and that I am not related to the principal by blood or marriage, and I would not be entitled to any portion of the estate of the principal under any existing will or codicil of the principal or as an heir under the Intestate Succession Act, if the principal died on this date without a will. I also state that I am not the principal's attending physician, nor an employee of the principal's attending physician, nor an employee of the health facility in which the principal is a patient, nor an employee of a nursing home or any group care home where

the principal resides. I further state that I do not have any claim against the principal.

Witness:.....Date:.....

Witness:.....Date:.....

STATE OF NORTH CAROLINA

COUNTY OF.....

CERTIFICATE

I,....., a Notary Public for.....County, North Carolina, hereby certify that.....appeared before me and swore to me and to the witnesses in my presence that this instrument is a health care power of attorney, and that he/she willingly and voluntarily made and executed it as his/her free act and deed for the purposes expressed in it.

I further certify that.....and....., witnesses, appeared before me and swore that they witnessed.....sign the attached health care power of attorney, believing him/her to be of sound mind; and also swore that at the time they witnessed the signing (i) they were not related within the third degree to him/her or his/her spouse, and (ii) they did not know nor have a reasonable expectation that they would be entitled to any portion of his/her estate upon his/her death under any will or codicil thereto then existing or under the Intestate Succession Act as it provided at that time, and (iii) they were not a physician attending him/her, nor an employee of an attending physician, nor an employee of a health facility in which he/she was a patient, nor an employee of a nursing home or any group-care home in which he/she resided, and (iv) they did not have a claim against him/her. I further certify that I am satisfied as to the genuineness and due execution of the instrument.

This the.....day of....., 19.....

.....
Notary Public

My Commission Expires:
.....

(A copy of this form should be given to your health care agent and any alternate named in this power of attorney, and to your physician and family members.)

~~I,....., agree to act as health care agent for ....., pursuant to this health care power of attorney.~~

~~This the.....day of....., 19.....~~

~~.....~~

~~....."~~

Sec. 4. This act becomes effective October 1, 1993. Powers of attorney made before this date remain in full force and effect.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 1053 **CHAPTER 524**

AN ACT TO AUTHORIZE THE DESIGNATION OF SCENIC HIGHWAYS AND BYWAYS AND TO LIMIT THE CONSTRUCTION OF OUTDOOR ADVERTISING TO PROMOTE THE SAFETY AND RECREATIONAL VALUE OF PUBLIC TRAVEL, AND TO ENHANCE NATURAL BEAUTY.

The General Assembly of North Carolina enacts:

Section 1. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"*§ 136-129.2. Limitation of outdoor advertising devices adjacent to scenic highways, State and National Parks, historic areas and other places.*

(a) In addition to the limitations contained in G.S. 136-129 and G.S. 136-129.1, in order to further the purposes set forth in Article 10 of this Chapter and to promote the reasonable, orderly, and effective display of outdoor advertising devices along highways adjacent to scenic and historical areas, while protecting the public investment in these highways and promoting the safety and recreational value of public travel, and to preserve natural beauty, no outdoor advertising sign shall be erected adjacent to any highway which is either:

(1) a. A scenic highway or scenic byway designated by the Board of Transportation;

b. Within 1,200 feet, on the same side of the highway, of the boundary line of a North Carolina State Park, a National Park, a State or national wildlife refuge, or a designated wild and scenic river; or

c. Within 500 feet, on the same side of the highway, of the boundary lines of any historic districts and other properties listed in the National Register of Historic Places or State rest areas, or within the boundary lines of any historic district;

except as permitted under G.S. 136-129(1),(2),(2a), or (3); or

(2) Within one-third of the applicable distances under sub-subdivision (a)(1)b. and (a)(1)c. of this section, along the opposite side of the highway from any of the properties designated in sub-subdivision (a)(1)b. and (a)(1)c. of this section, except as permitted under G.S. 136-129(1),(2),(2a),(3), (4), or (5).

(b) The distances set forth in this section shall be measured horizontally in linear feet extending in each direction along the edge of the pavement of the highway from any point on the boundary of the subject property, or any point on the opposite side of the highway perpendicular to any point on the boundary line of the subject property.

(c) As used in sub-subdivision (a)(1)b. and (a)(1)c. of this section, the term 'highway' means a highway that is designated as a part of the interstate or federal-aid primary highway system as of June 1, 1991, or any highway which is or becomes a part of the National Highway System."

Sec. 2. G.S. 136-130 reads as rewritten:

"§ *136-130. Regulation of advertising.*

The Department of Transportation is authorized to promulgate rules and regulations in the form of ordinances governing:

(1) The erection and maintenance of outdoor advertising permitted in G.S. 136-129,

(2) The erection and maintenance of outdoor advertising permitted in G.S. 136-129.1,

(2a) The erection and maintenance of outdoor advertising permitted in G.S. 136-129.2,

(3) The specific requirements and procedures for obtaining a permit for outdoor advertising as required in G.S. 136-133 and for the administrative procedures for appealing a decision at the agency level to refuse to grant or in revoking a permit previously issued, and

(4) The administrative procedures for appealing a decision at the agency level to declare any outdoor advertising illegal and a nuisance as pursuant to G.S. 136-134, as may be necessary to carry out the policy of the State declared in this Article."

Sec. 3. G.S. 136-131 reads as rewritten:

"§ *136-131. Removal of existing nonconforming advertising.*

The Department of Transportation is authorized to acquire by purchase, gift, or condemnation all outdoor advertising and all property rights pertaining thereto which are prohibited under the provisions of G.S. ~~136-129 or 136-129.1,~~ 136-129, 136-129.1 or 136-129.2, provided such outdoor advertising is in lawful existence on the effective date of this Article as determined by G.S. 136-140, or provided that it is lawfully erected after the effective date of this Article as determined by G.S. 136-140.

In any acquisition, purchase or condemnation, just compensation to the owner of the outdoor advertising, where the owner of the outdoor advertising does not own the fee, shall be limited to the fair market value at the time of the taking of the outdoor advertising owner's interest in the real property on which the outdoor advertising is located and such value shall include the value of the outdoor advertising.

In any acquisition, purchase or condemnation, just compensation to the owner of the fee or other interest in the real property upon which the outdoor advertising is located where said owner does not own the outdoor advertising located thereon shall be limited to the difference in the fair market value of the entire tract immediately before and immediately after the taking by the Department of Transportation of the right to maintain such outdoor advertising thereon and in arriving at the fair market value after the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration.

In any acquisition, purchase or condemnation, just compensation to the owner of the fee in the real property upon which the outdoor advertising is located, where said owner also owns the outdoor advertising located thereon, shall be limited to the fair market value of the outdoor advertising plus the difference in the fair market value of the entire tract immediately before and immediately after the taking by the Department of Transportation of the right to maintain such outdoor advertising thereon and in arriving at the fair market value after the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration."

Sec. 4. G.S. 136-18 is amended by adding a new subdivision to read:

"(31) The Department of Transportation is authorized to designate portions of highways as scenic highways, and combinations of portions of highways as scenic byways, for portions of those highways that possess unusual, exceptional, or distinctive scenic, recreational, historical, educational, scientific, geoiogical, natural, wildlife, cultural or ethnic features. The Department shall remove,

upon application, from any existing or future scenic highway or scenic byway designation, highway sections that:

a. Have no scenic value,

b. Have been designated or would be so designated solely to preserve system continuity, and

c. Are adjacent to property on which is located one or more permanent structures devoted to a commercial or industrial activity and on which a commercial or industrial activity is actually conducted, in an unzoned area or an area zoned commercial or industrial pursuant to a State or local zoning ordinance or regulation, except for commercial activity related to tourism or recreation.

The Department shall adopt rules and regulations setting forth the criteria and procedures for the designation of scenic highways and scenic byways under this subsection.

Those portions of highways designated as scenic by the Department prior to July 1, 1993, are considered to be designated as scenic highways and scenic byways under this subsection but the Department shall remove from this designation portions of those highway sections that meet the criteria set forth in this subsection, if requested."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 1095 **CHAPTER 525**

AN ACT TO PROHIBIT INSURERS FROM REQUIRING THE USE OF SPECIFIED REPAIR COMPANIES FOR MOTOR VEHICLE DAMAGE REPAIRS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-33-76 reads as rewritten:

"*§ 58-33-76. Referral of business to repair source; prohibitions.*

(a) No insurance company, agent, adjuster or appraiser or any person employed to perform their service shall recommend the use of a particular service or source for the repair of property damage without clearly informing the claimant that the claimant is under no obligation to use the recommended repair service.

(b) No insurance company, agent, adjuster or appraiser or any person employed to perform their service shall accept any gratuity or other form of remuneration from a repair service for recommending

that repair service to a claimant. Provided, however, discounts agreed to by repair services shall not violate this section.

(c) Any person who violates this section is subject to the provisions of G.S. 58-2-70 and G.S. 58-33-45."

Sec. 2. Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-3-170. Motor vehicle repairs; selection by claimant.*

(a) A policy covering damage to a motor vehicle shall allow the claimant to select the repair service or source for the repair of the damage.

(b) The amount determined by the insurer to be payable under a policy covering damage to a motor vehicle shall be paid regardless of the repair service or source selected by the claimant.

(c) Any person who violates this section is subject to the applicable provisions of G.S. 58-2-70 and G.S. 58-33-45, provided that the maximum civil penalty that can be assessed under G.S. 58-2-70(d) for a violation of this section is two thousand dollars ($2,000)."

Sec. 3. This act is effective upon ratification and applies to policies with a renewal, inception, or anniversary date on or after October 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 1131 **CHAPTER 526**

AN ACT TO DIRECT THE GOVERNOR'S COMMISSION ON WORK FORCE PREPAREDNESS TO STUDY THE NEED FOR GRANT FUNDS FOR STATE LITERACY PROGRAMS.

Whereas, the 1990 census shows that approximately five hundred forty thousand North Carolinians over the age of 25 have only an elementary school education; and

Whereas, this level of education is far below the level of twelve to fourteen years of education needed to function adequately in today's society; and

Whereas, the children of parents with low reading skills are destined to repeat the cycle of illiteracy unless they and their parents receive intensive literacy tutoring; and

Whereas, volunteer literacy councils across the State have worked faithfully as a partner of adult basic education and the education system of North Carolina for over 25 years; moreover, during this time, these councils have provided literacy services at their own expense, having received no public monies and having charged no fees for the services; and

Whereas, the need for program services continues to increase, but little money is available for program administration; this dearth of administrative support is forcing volunteer literacy programs to spend a larger amount of time and energy in fund-raising to keep up with administrative costs, thus having less time and energy to spend on recruitment of tutors and students and on facilitating student literacy; and

Whereas, limited federal funds have been approved for a North Carolina Literacy Resource Center which will be established under the jurisdiction of the Governor's Commission on Work Force Preparedness. The Center will coordinate literacy efforts within the State and will provide sorely needed resources and a link between the new National Institute for Literacy and service providers; and

Whereas a strong State literacy office is needed to: (i) support the volunteer literacy work now in progress, (ii) begin volunteer literacy work in the 35 North Carolina counties that do not have such programs, (iii) improve provider training, and (iv) launch new projects statewide that will greatly enhance the effectiveness of adult literacy efforts; and

Whereas, to accomplish these tasks will require a consistent and stable funding base; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Commission on Work Force Preparedness shall study the efficacy of volunteer based community literacy programs and the need for establishing a State-funded grant program the purpose of which would be to provide funds to nonprofit, community-based adult literacy organizations. Grant funds would be used to assist these organizations in the development and implementation of adult literacy programs, to enable the organizations to provide services to more under-educated adults than are now being served, and for other purposes designed to improve the literacy rate in North Carolina.

Sec. 2. The Governor shall ensure the involvement of representatives from community-based literacy programs in and for the duration of the Commission's study authorized under Section 1 of this act.

Sec. 3. The Commission on Work Force Preparedness shall report its findings and recommendations pursuant to the study authorized under Section 1 of this act to the Joint Legislative Education Oversight Committee not later than May 1, 1994.

Sec. 4. This act becomes effective July 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 1359 **CHAPTER 527**

AN ACT TO ALLOW AN INCOME TAX CREDIT FOR EXPENDITURES TO REHABILITATE A CERTIFIED HISTORIC STRUCTURE.

The General Assembly of North Carolina enacts:

Section 1. Division I of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"*§ 105-130.42. Credit for rehabilitating an historic structure.*

A taxpayer who makes qualifying rehabilitation expenditures as defined in section 47 of the Code with respect to a certified historic structure located in this State is allowed as a credit against the tax imposed by this Division an amount equal to one-fourth of the federal income tax credit under the Code for which the taxpayer is eligible for those rehabilitation expenditures. The credit allowed under this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer."

Sec. 2. Division II of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"*§ 105-151.23. Credit for rehabilitating an historic structure.*

A taxpayer who makes qualifying rehabilitation expenditures as defined in section 47 of the Code with respect to a certified historic structure located in this State is allowed as a credit against the tax imposed by this Division an amount equal to one-fourth of the federal income tax credit under the Code for which the taxpayer is eligible for those rehabilitation expenditures. The credit allowed under this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer."

Sec. 3. This act is effective for taxable years beginning on or after January 1, 1994.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 1492 **CHAPTER 528**

AN ACT TO REQUIRE THE BUILDING CODE COUNCIL TO ESTABLISH STANDARDS FOR TEMPORARY TOILET FACILITIES AT CONSTRUCTION SITES TO ENSURE SANITARY CONDITIONS FOR CONSTRUCTION WORKERS.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"*§ 143-143.3. Temporary toilet facilities at construction sites.*

(a) Suitable toilet facilities shall be provided and maintained in a sanitary condition during construction. An adequate number of facilities must be provided for the number of employees at the construction site. There shall be at least one facility for every two contiguous construction sites. Such facilities may be portable, enclosed, chemically treated, tank-tight units. Portable toilets shall be enclosed, screened, and weatherproofed with internal latches. Temporary toilet facilities need not be provided on-site for crews on a job site for no more than one working day and having transportation readily available to nearby toilet facilities.

(b) It shall be the duty of the Building Code Council to establish standards to carry out the provisions of subsection (a) of this section not inconsistent with the requirements for toilet facilities at construction sites established pursuant to federal occupational safety and health rules."

Sec. 2. This act becomes effective August 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 729 **CHAPTER 529**

AN ACT TO PROVIDE FOR HEALTH CARE REFORM PLANNING, SMALL EMPLOYER PURCHASING GROUPS, REORGANIZATION OF STATE HEALTH FUNCTIONS INTO A STATE DEPARTMENT OF HEALTH, THE CREATION OF COMMUNITY HEALTH DISTRICTS, UNIFORM HEALTH CLAIM FORMS, HOSPITAL COOPERATION AGREEMENTS, AND HEALTH DELIVERY IMPROVEMENTS.

The General Assembly of North Carolina enacts:

PART I.--HEALTH CARE REFORM PLANNING

Section 1. (a) This act shall be known as the "Jeralds - Ezzell - Fletcher Health Care Reform Act of 1993".

(b) The General Assembly makes the following findings:

(1) More than 1,000,000 North Carolina citizens are uninsured on an average day, and an additional number are underinsured.

(2) North Carolina citizens who are uninsured and underinsured lack access or have limited access to health care, especially to cost-effective primary and preventive care, which may result in poor health, illness, and death.

(3) The health care received by uninsured and underinsured individuals is obtained primarily through public programs, and is financed by cost shifting which places an unfair financial burden on those who can pay, especially on employers who provide health care coverage for their employees.

(4) Health care costs in North Carolina and nationwide are rising much more rapidly than incomes, and the disparity will continue to grow over time unless health care reform is enacted.

(5) The increasing numbers of uninsured and underinsured individuals in North Carolina and the escalating costs of health care are so interrelated that it is not possible to guarantee access to health care for all North Carolina citizens without containing health care costs.

(6) Given the scope and complexity of health reform, the General Assembly expects the necessary changes to take years, and for the results to extend well into the next century. Purchasing alliances for small employers should provide accessibility and affordability of health care in an employer-based system as the General Assembly plans for these changes.

(7) In order to improve the health status of every North Carolinian, it is necessary for each citizen to have access to appropriate health services delivered by a broad range of health providers who are either licensed or certified in North Carolina.

(8) Appropriate health services can be provided most effectively within each of several local health communities.

(9) Within each health community every citizen shall be able to select the primary care provider of choice and, in return, every citizen shall be held accountable for a healthy lifestyle.

(10) The health providers in each of the several communities shall be held accountable for the health of that community and shall cooperate and collaborate to that end.

(11) In order to ensure that each local health community can address its unique health problems adequately, the State shall provide assessment, assurance, and assistance.

(12) The State's support of local health communities shall be through a State Department of Health whose principal role is to assist local health communities to develop individual solutions to health problems.

Sec. 1.1. Chapter 58 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 68A.

"Health Care Reform Planning.

"*§ 58-68-21. Short title; legislative intent.*

The General Assembly finds that in order to provide access and contain costs it is necessary to plan for the restructuring of the financing and delivery of health care in this State. It is the intent of the General Assembly to:

(1) Develop a universal health care program to provide all North Carolina residents access to quality health care that is comprehensive and affordable.

(2) Implement the universal health care program only when:

a. A national mandate for universal coverage takes effect; or

b. Waivers have been obtained exempting North Carolina from ERISA and if necessary, from Medicaid and Medicare; or

c. The General Assembly has determined that it can implement a universal health care program within existing law and determines it would not adversely affect the economy and the business climate in North Carolina.

(3) Establish a commission to reorganize North Carolina's citizenry in improving its health and to develop the universal health care program.

(4) Focus health reform upon improving health status and the included health care.

(5) Encourage local communities to develop local solutions to health problems which will require the local community to create a board, representative of the citizenry, which shall guide the health affairs of the community, assign health priorities, and allocate health resources.

(6) Ensure that the reform mechanisms implemented recognize the roles of all health professionals who are either licensed

or certified in North Carolina in improving the health status of the citizenry of North Carolina.

"§ 58-68-22. *Definitions.*

As used in this Article, unless the context clearly requires otherwise, the following definitions apply:

(1) 'Community health plan' means any privately administered health service plan or any other mode of delivery of health care that is certified by a regional health plan purchasing cooperative and that provides health care services to eligible residents in exchange for a prescribed charge paid pursuant to the program of universal health coverage established by this Article.

(2) 'Commission' means the North Carolina Health Planning Commission established pursuant to Article 65 of Chapter 143 of the General Statutes.

(3) 'Eligible resident' means an individual who has been legally domiciled in this State for a period of 30 days. For purposes of this Article, legal domicile is established by living in this State and obtaining a North Carolina motor vehicle operator's license, registering to vote in North Carolina, or filing a North Carolina income tax return. A child is legally domiciled in this State if the child lives in this State and if at least one of the child's parents or the child's guardian is legally domiciled in this State for a period of 30 days. A person with a developmental disability or another disability which prevents the person from obtaining a North Carolina motor vehicle operator's license, registering to vote in North Carolina, or filing a North Carolina income tax return, is legally domiciled in this State by living in the State for 30 days.

(4) 'Federal poverty income level' means the federal official poverty line, as defined by the Federal Office of Management and Budget, based on Bureau of Census data, and revised annually by the Secretary of Health and Human Services pursuant to section 9902(2) of Title 42 of the United States Code.

(5) 'Plan' means the North Carolina Health Plan described in this Article.

(6) 'Regional health plan purchasing cooperative' means an organization established to administer the Plan in a geographic area of the State.

"§ 58-68-23. *North Carolina Health Plan.*

The Commission may design a plan for a system of universal health care coverage to be known as the North Carolina Health Plan. The

Plan, when implemented, will provide all eligible residents the same guaranteed package of comprehensive, medically necessary health care services, including primary and preventive care. These health care services will be provided through community health plans that will accept all eligible residents regardless of health status, and without individual medical underwriting, preexisting condition exclusions, or waiting periods. The Plan shall address the following elements:

(1) Financing. -- A method or methods of financing the Plan shall be recommended by the Commission. The system which will ensure that every North Carolina citizen has access to affordable health care, regardless of the resources of the community in which he resides.

(2) Cost Containment. -- Costs shall be contained by encouraging competition among community health plans on the basis of price and quality, reducing administrative costs, providing incentives for health care providers to participate in managed-care systems, ensuring appropriate growth in medical technology, and through any other methods that will contain health care costs without impairing the quality of services.

(3) Provider Fees and Practice Parameters. -- The Plan shall address the following aspects of provider fees and practice parameters:

a. Global per case reimbursement including both professional and institutional providers;

b. Resource-Based Relative Value Scale (RBRVS) fee schedules for all other physician reimbursement; and

c. The use of physician practice guidelines for reimbursement and utilization review purposes only.

(4) Benefit Package. -- A benefit package shall be developed by the Commission similar to the most commonly purchased Health Maintenance Organization (HMO) benefit package in the State. The Commission's benefit package shall include patient cost-sharing, except there shall be full coverage with no deductible and no copayments for prenatal care, well child care, periodic physical examinations, and other health screenings and services as recommended by the U.S. Preventive Services Task Force 'Guide to Clinical Preventive Services'. Cost-sharing for eligible residents below one hundred percent (100%) of the federal poverty income level shall not exceed Medicaid-allowable amounts. Cost-sharing for eligible residents between one hundred percent (100%) and two hundred fifty percent (250%) of poverty shall be

based on a sliding scale. The Commission shall develop maximum out-of-pocket limits.

(5) Administration. -- The Plan may be administered through regional health plan purchasing cooperatives that will:

a. Certify private health plans as community health plans for participation in the system of universal health coverage on the basis of ability to deliver the State-guaranteed package of comprehensive, medically necessary health services in accordance with criteria defined by the Commission for quality and service. All community health plans meeting certification requirements will be certified.

b. Pay each community health plan the same risk-adjusted per capita amount for all eligible persons, except that the Commission shall have the authority to ensure accessibility to health care in rural and medically underserved areas by enhancing provider payments, requiring an accountable health plan to provide services throughout the area, or by any other reasonable means.

c. Ensure that no community health plan that charges an additional premium shall charge an eligible resident a higher premium than that charged to any other eligible resident for the same accountable health plan.

d. Except in underserved areas in which the regional health plan purchasing cooperative determines that there are insufficient providers to support more than one community health plan, ensure that all eligible residents have a choice of at least two community health plans that will provide the State-guaranteed package of comprehensive, medically necessary health services for no additional premium above that paid on their behalf by the regional health plan purchasing cooperative.

e. Assist eligible residents in choosing among community health plans by providing consumer education, including uniform information about all the community health plans available through the health plan purchasing cooperative such as quality indicators and choice of providers.

f. Provide a mechanism for enrolling all eligible residents in their chosen community health plans and for automatically enrolling in a community health plan all eligible residents who fail to choose such a plan.

g. The number, organization, and geographic areas of the regional health plan purchasing cooperatives to be

established, which will include at least six geographic areas. Each area is to be defined so that it is self-sufficient in providing comprehensive health care including most tertiary services, thus allowing for a large enough population to support community rating.

h. Monitor and enforce standards concerning access, consumer satisfaction, and quality of care in all community health plans.

i. Jointly with the Commission and the North Carolina Medical Database Commission, collect data from all community health plans and sponsor research into health outcomes and practice guidelines.

j. Jointly with the Commission and where necessary to meet the needs of underserved areas or special populations, organize the delivery of health care.

k. Receive bids annually from private health plans to provide the benefit package established by the Commission to enrolled eligible residents. A health plan purchasing cooperative may reject any or all bids, and may request that revised bids be submitted.

(6) Large Groups. -- In order to preserve employer-based and other group health care coverage, the Plan may provide, notwithstanding any other provision of this Article, for the direct marketing by community health plans to an employer with 100 or more employees and to any other group with 100 or more members, provided that the employer or group is eligible under G.S. 58-51-80 for group accident, group health, or group accident and health insurance. If the Plan provides for direct marketing of insurance to large groups as defined in this subsection, it shall also address the extent to which those groups and self-insured plans (prior to obtaining an ERISA waiver) should be subject to the certification requirements for community health plans, whether exemptions, tax credits, or other means are necessary and appropriate to provide for equitable treatment of large groups and self-insured groups under any tax-financed system of universal health care coverage, and other issues involving the use of large group coverage with universal coverage. The regional health plan purchasing cooperatives would be responsible for marketing community health plans to individuals and all other groups. Before the plan provides for direct marketing to large groups, the Commission shall study whether there are any adverse affects to the purchasing arrangements in effect for other residents, the impact on

portability of coverage, and the role large employers play in financing coverage for the uninsured and indigent populations."

Sec. 1.2. Chapter 143 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 65.

"North Carolina Health Planning Commission.

"*§ 143-610. Definitions.*

As used in this Article, unless the context clearly requires otherwise, the following definitions apply:

(1) 'Community health plan' means any privately administered health service plan or any other mode of delivery of health care that is certified by a regional health plan purchasing cooperative and that provides health care services to eligible residents in exchange for a prescribed charge paid pursuant to the program of universal health coverage established by this Article.

(2) 'Commission' means the North Carolina Health Planning Commission.

(3) 'Eligible resident' means an individual who has been legally domiciled in this State for a period of 30 days. For purposes of this Article, legal domicile is established by living in this State and obtaining a North Carolina motor vehicle operator's license, registering to vote in North Carolina, or filing a North Carolina income tax return. A child is legally domiciled in this State if the child lives in this State and if at least one of the child's parents or the child's guardian is legally domiciled in this State for a period of 30 days. A person with a developmental disability or another disability which prevents the person from obtaining a North Carolina motor vehicle operator's license, registering to vote in North Carolina, or filing a North Carolina income tax return, is legally domiciled in this State by living in the State for 30 days.

(4) 'Federal poverty income level' means the federal official poverty line, as defined by the Federal Office of Management and Budget, based on Bureau of Census data, and revised annually by the Secretary of Health and Human Services pursuant to section 9902(2) of Title 42 of the United States Code.

(5) 'Plan' means the North Carolina Health Plan described in this Article.

(6) 'Regional health plan purchasing cooperative' means an organization established to administer the Plan in a geographic area of the State.

"§ 143-611. Commission established; members; terms of office; quorum; compensation.

(a) Establishment. -- There is established the North Carolina Health Planning Commission with the powers and duties specified in this Article. The Commission shall be located within the Office of the Secretary, Department of Human Resources, for organizational, budgetary, and administrative purposes.

(b) Membership and Terms. -- The Commission shall consist of 16 members, as follows:

(1) The Governor;

(2) The Lieutenant Governor;

(3) The Speaker of the House of Representatives;

(4) The President Pro Tempore of the Senate;

(5) Five members of the House of Representatives appointed by the Speaker of the House of Representatives;

(6) Five members of the Senate appointed by the President Pro Tempore of the Senate; and

(7) The following nonvoting members, ex officio:

a. The Secretary of the Department of Environment, Health, and Natural Resources; and

b. The Secretary of the Department of Human Resources.

(c) Compensation. -- The Commission members shall receive no salary as a result of serving on the Commission but shall receive necessary subsistence and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

(d) Meetings. -- The Governor shall convene the Commission. Meetings shall be held as often as necessary, but not less than six times a year.

(e) Quorum. -- A majority of the voting members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

"§ 143-612. Powers and duties of the Commission.

(a) Administrative Powers. -- The Commission shall have the following administrative powers:

(1) To appoint a director, who shall be exempt from the State Personnel Act, and to employ other staff as it deems necessary, subject to the State Personnel Act, and to fix their compensation;

(2) To enter into contracts to carry out the purposes of this Article;

(3) To conduct investigations and inquiries and compel the submission of information and records the Commission deems necessary; and

(4) To accept grants, contributions, devises, bequests, and gifts for the purpose of providing financial support to the Commission. Such funds shall be retained by the Commission.

(b) Plan Development. -- The Commission may develop a Plan, for submission to the General Assembly. If the Commission develops a Plan in accordance with G.S. 58-68-23, the Plan may incorporate the following:

(1) Annual review of the benefits package;

(2) Annual budget targets;

(3) Cost-containment measures to meet established annual budget targets;

(4) Independent actuarial cost estimates for the recommended benefit package;

(5) The amount of appropriations needed to finance the Plan;

(6) The methodology to be used in making risk-adjusted payments to the community health plans;

(7) The standards for eligibility for the Plan in addition to those contained in G.S. 58-68-22(3) and G.S. 143-610(3);

(8) Accessibility to health care in rural and medically underserved areas through the enhancement of provider payments, requiring community health plans to provide services throughout their area, or by any other reasonable means;

(9) Supplemental health benefits for all eligible residents including employees of business entities; and

(10) The economic impacts of implementing the Plan, including overall costs to the State economy, costs to the State's business economy, costs to the State, impact on future State economic development, immediate effects on the job market in the State, and a 10-year projection of these items if the Plan is not implemented.

(c) Plan Study. -- The Commission shall also study the following issues and may recommend to the General Assembly actions to address these issues:

(1) The steps necessary to include the populations served by Medicaid, including a statement of any necessary federal waivers;

(2) The steps necessary to obtain an exemption from the federal Employee Retirement and Income Security Act (ERISA);

(3) Examine the roles of other existing publicly financed systems of health coverage such as Medicare, federal employee health benefits, health benefits for armed services members, the Veterans Administration, the CHAMPUS program (10 U.S.C. § 1071 *et seq.*), and any other health benefits currently mandated by State or federal law or funded by State agencies;

(4) Whether existing retirement health benefits may be included in the Plan;

(5) The mechanisms for ensuring that the Plan will provide appropriate access to quality medical services for all eligible residents;

(6) The means by which the Plan will ensure that the needs of special populations of eligible residents such as low-income persons, people living in rural and underserved areas, and people with disabilities and chronic or unusual medical needs will be met;

(7) The role of the existing county health care system in the Plan;

(8) Proposals for consolidation of the health care components of workers' compensation and automobile insurance with the health coverage provided under the Plan to avoid duplication of coverage;

(9) The appropriate means of financing medical education and medical research;

(10) The appropriate method of collecting data for both quality assurance and cost containment, and in guiding the proliferation of new medical technologies;

(11) The means by which North Carolina's need for long-term care services can best be met, including an examination of the appropriateness and availability of home and community-based services;

(12) Whether medical malpractice tort reforms are needed, and, if so, the tort reforms needed;

(13) The development of medical practice parameters;

(14) The need for rate-setting in areas where sufficient competition does not exist;

(15) The need for the collection of data prior to implementation of the Plan and develop, if necessary, recommendations for the collection of such data;

(16) The impact of the Plan on small businesses and methods to alleviate undue financial burdens on small businesses, including, but not limited to, a specified monthly level of payroll upon which no assessment is made;

(17) The impact of the Plan on continued group health insurance for large groups;

(18) The use of licensed insurance agents and producers in the enrollment, education, and provision of service to eligible residents;

(19) The need for and methods to accomplish global budgeting;

(20) Methods to ensure adequate primary care for all eligible residents, and appropriate compensation for primary care services to achieve that end;

(21) Methods to increase the number of mobile health care units that provide services to communities that are underserved with respect to health care;

(22) The impact on health care cost and efficiency of rule changes made by State and local government agencies pertaining to health care services. The study shall include the impact of the frequency of such rule changes;

(23) The relationship between the Plan, regional health plan purchasing cooperatives, community health districts, a Department of Health, the Commission, and the Health Care Purchasing Alliances established under G.S. 143-627;

(24) The establishment of a health care trust fund in the State Treasurer's Office to serve as a depository for the following:

a. All revenues collected from taxes and other sources enacted for the purpose of funding the Plan;

b. All federal payments received as a result of any waiver of requirements granted by the United States Secretary of Health and Human Services under health care programs established under Title XIX of the Social Security Act, as amended; and

c. All moneys appropriated by the North Carolina General Assembly for carrying out the purposes of the Plan.

(25) Identification of need for additional benefits and population-based services to be offered in the community, based on the established priorities for improving community health status in the community;

(26) Mechanisms to provide for the continuing education and training of health care personnel and community health district boards; and

(27) Review of community health districts' reports and establishment of priorities for programs and financing to address community health district needs.

(d) Notwithstanding any other provision in this Article or Article 68A of Chapter 58 of the General Statutes, the Commission may develop its own health care proposals or plans or make any other recommendations to the General Assembly.

(e) The Commission shall appoint such advisory, technical, and professional panels as it deems necessary to advise it on the performance and administration of its functions. Each panel shall consist of experts drawn from the health professions, health educational institutions, providers of services, insurers, and other sources, including consumers. At least three panels shall be established to advise, consult with, and make recommendations to the Commission on the development, maintenance, funding, evaluation, and priorities of community health services.

"*§ 143-614. Reports.*

(a) The Commission shall submit to the General Assembly, no later than April 1, 1994, the following:

(1) An outline for the development of a Health Care Reform Plan.

(2) The implementation plan for Phases I and II, as required under Section 1.4 of this act.

(3) A progress report on the study of issues on Health Care Reform pursuant to G.S. 143-612(c).

(b) The Commission shall submit to the General Assembly, no later than April 1, 1995, the following:

(1) A progress report on the development of a Health Care Reform Plan.

(2) The implementation plan for Phase III, as required under Section 1.4 of this act.

(3) Recommendations resulting from the study of issues on Health Care Reform pursuant to G.S. 143-612(c).

(c) The Commission shall thereafter report annually to the General Assembly on its activities, findings, and recommendations. Reports shall be submitted no later than April 1 of each year."

Sec. 1.3. Section 78 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 78. (a) Funds appropriated in this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-year, second-year, third-year, and fourth-

year students in the medical school as of November 1, 1993, and November 1, 1994. Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars ($8,000) for each medical student who is a North Carolina resident, one thousand dollars ($1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the medical school. The maximum aid given to any student from this fund in a given year may not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at the University of North Carolina at Chapel Hill.

Disbursement to Duke University shall be made in the amount of five thousand dollars ($5,000) for each medical student who is a North Carolina resident, five hundred dollars ($500.00) of which shall be placed by the school in a fund to be used to provide student financial aid to financially needy North Carolina students who are enrolled in the medical school. No individual student may be awarded assistance from this fund in excess of two thousand dollars ($2,000) each year. In addition to this basic disbursement for each year of the biennium, a disbursement of one thousand dollars ($1,000) shall be made for each medical student who is a North Carolina resident in the first-year, second-year, third-year, and fourth-year classes to the extent that enrollment of each of those classes exceeds 30 North Carolina students.

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the medical schools and shall review the grants or awards to eligible students. The Board of Governors shall adopt rules for determining which students are residents of North Carolina for the purposes of these programs. The Board of Governors shall also make any regulations as necessary to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes.

(a1) In recognition of North Carolina's need for primary care physicians, Bowman Gray School of Medicine and Duke University School of Medicine shall each prepare a plan with the goal of encouraging North Carolina residents to enter the primary care disciplines of general internal medicine, general pediatrics, family medicine, obstetrics/gynecology, and combined medicine/pediatrics and to strive to have at least fifty percent (50%) of North Carolina residents graduating from each school entering these disciplines. These schools of medicine shall present their plans to the Board of Governors of The University of North Carolina by April 15, 1994. The Board of Governors shall report to the Joint Legislative Education

Oversight Committee by May 15, 1994, on the status of these efforts to strengthen primary health care in North Carolina.

(b) The Board of Governors of The University of North Carolina shall set goals for the Schools of Medicine at the University of North Carolina at Chapel Hill and the School of Medicine at East Carolina University for increasing the percentage of graduates who enter residencies and careers in primary care. A minimum goal should be at least ~~fifty~~ sixty percent ~~(50%)~~ (60%) of graduates entering primary care disciplines. Each school shall submit a plan with strategies to reach these goals of increasing the number of graduates entering primary care disciplines to the Board by April 15, 1994. The Board of Governors shall report to the Joint Legislative Education Oversight Committee by May 15, 1994, on the status of these efforts to strengthen primary health care in North Carolina.

Primary care shall include the disciplines of family medicine, general pediatric medicine, general internal medicine, internal medicine/pediatrics, and obstetrics/gynecology.

(c) The Board of Governors of The University of North Carolina shall further initiate whatever changes are necessary on admissions, advising, curriculum, and other policies for State-operated medical schools to ensure that larger proportions of medical students seek residencies in primary care disciplines. The Board shall work with the Area Health Education Centers and other entities, adopting whatever policies it considers necessary to ensure that residency programs have sufficient medical residency positions for medical school graduates in these primary care specialties.

(d) The progress of the private and public medical schools towards increasing the number and proportion of graduates entering primary care shall be monitored annually by the Board of Governors of The University of North Carolina. Monitoring data shall include (i) the entry of State-supported medical graduates into primary care residencies, and (ii) the specialty practices by a physician as of a date five years after graduation. The Board of Governors shall certify data on graduates, their residencies, and subsequent careers by October 1 of each calendar year, beginning in October of 1995, to the Fiscal Research Division of the Legislative Services Office and to the Joint Legislative Education Oversight Committee.

(e) The information provided in subsection (d) of this section shall be made available to the Appropriations Committees of the General Assembly for their use in future funding decisions on medical education.

(f) Subsection (a1) of this section shall be codified as G.S. 143-613(a). Subsection (b) of this section shall be codified as G.S. 143-613(b). Subsection (c) of this section shall be codified as G.S. 143-

613(c). Subsection (d) of this section shall be codified as G.S. 143-613(d). Subsection (e) of this section shall be codified as G.S. 143-613(e). The catch line of G.S 143-613 shall read as follows: '*§ 143-613. Medical education; primary care physicians.*'"

Sec. 1.4. (a) It is the intent of the General Assembly that the North Carolina Health Planning Commission develop a Health Care Reform Plan and that a new commission be appointed in the future to oversee implementation of the Plan. The new Commission would be a seven-member panel appointed by the Governor, subject to confirmation by the General Assembly, and would be appointed at least six months prior to the Plan's effective date.

(b) The North Carolina Health Planning Commission, in preparing for this transition, shall develop (i) a phased implementation program for the Plan to coincide with a mandate or anticipated mandate for universal coverage, a federal preemption for North Carolina, or the date established by the General Assembly after it has determined that it can implement a universal health care program within existing laws, and (ii) a phased implementation plan for insurance reforms. The Plan shall incorporate the following structure for implementation. Phases I and II are interim measures until the General Assembly enacts a universal health coverage plan. Phase III is to be implemented in accordance with G.S. 58-68-21(2).

Phase I: The Small Employer Group Health Insurance Coverage Reform Act is expanded from employers with up to 25 employees to employers of up to 49 employees, pursuant to Chapter 408 of the 1993 Session Laws. Rating band restrictions for the individual market would also be instituted, to be phased in over a period of time.

Phase II: The Small Employer Group Health Insurance Coverage Reform Act would be expanded to employers with up to 99 employees. Community rating would begin to be implemented, with incremental implementation of rating bands. All carriers would be required to implement community health plan qualifications.

Phase III: Rating bands would be removed to fully implement adjusted community rating. Cost-containment measures would be implemented.

Sec. 1.5. The Department of Insurance and the Executive Administrator and the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall provide technical assistance to the North Carolina Health Planning Commission upon request, including assistance on statutory changes required in Chapters 58 and 135 of the General Statutes in order to effectuate the Plan.

Sec. 1.6. Of the funds appropriated to the Reserve for Health Care Initiatives in Chapter 321 of the 1993 Session Laws, the sum of

one million five hundred thousand dollars ($1,500,000) for the 1993-94 fiscal year and the sum of one million five hundred thousand dollars ($1,500,000) for the 1994-95 fiscal year shall be used for the operation of the North Carolina Health Planning Commission and for other activities related to the duties and responsibilities of the Commission pursuant to this Act.

Sec. 1.7. Nothing in this Part shall be construed to give the North Carolina Health Planning Commission authority to implement any Plan for health care reform developed under this Part. A Plan developed under this Part shall not be implemented without additional authorizing legislation from the General Assembly.

Sec. 1.8. Section 1.6 of this act becomes effective July 1, 1993.

PART II.--DEPARTMENT OF HEALTH AND COMMUNITY HEALTH DISTRICTS

Sec. 2.1. (a) From the least fortunate to those with greatest wealth in this State, there is near universal concern over the current health system. Strong and effective preventive health services must not only be designed but implemented. The people in this State, wherever they happen to reside, shall have access to comparable levels of health services at reasonable costs. Lack of access for hundreds of thousands of North Carolinians, and a host of unacceptable health indices, require a carefully constructed plan for reform. If the State is to face this responsibility, it will require consolidation of planning and oversight of many presently scattered health programs. Fundamental health reform demands clear accountability. Accountability is impossible when many different departments and divisions of government have responsibility.

(b) The Governor shall present to the General Assembly no later than April 1, 1994, a plan for consolidating all of the State health functions into one State Department of Health. The plan shall be based upon and shall address the principles and elements outlined in subsections (c) and (d) of this section.

(c) The Governor's plan as required under subsection (b) of this section shall be based on the following principles:

(1) Improved health status - not health care - should be the ultimate goal;

(2) Health status must be improved primarily through locally developed initiatives;

(3) The appropriate role of the State is to assure a framework by which health services can be delivered in local communities;

(4) While State and local governments should provide the framework for the delivery of health services, they should not interpret this responsibility as a requirement to directly provide all of these services;

(5) In order for a new health system to be effective, there must be cooperative and collaborative efforts in place throughout the State. Hospitals, health departments, individual health providers, provider organizations, and others must find new and innovative ways to work together effectively.

(d) The Plan required under subsection (b) of this section shall be based on the following elements:

(1) A Department of Health encompassing at least all health functions now residing in the Department of Human Resources, Department of Environment, Health, and Natural Resources, the North Carolina Medical Database Commission, and any other functions assigned by the General Assembly or Governor to State agencies relating to health care.

(2) Expansion of the Commission for Health Services to include a membership comprised of health experts, business leaders, and consumers, and the appointment of a State Health Secretary by the Governor to head the Department of Health. The expanded Commission may be developed and created before the Department comes into existence. Such a Commission should be placed within the Department of Human Resources until such time as the Department of Health is created.

(3) The Department of Health shall promote and organize "Community Health Districts". Community Health Districts shall represent the locus of health policy and delivery for the designated communities they serve. All governmental health-related activities will be conducted under the auspices of the District. Each District shall have a local District Board of Health whose members shall be appointed by the County Boards of Commissioners of each county within the District.

(4) The State Health Department and Commission for Health Services shall establish scientifically based indicators of health quality. The Community Health District shall be responsible for implementation of disease prevention, local health regulation, and health care delivery for the community pursuant to broad guidelines established by the Commission for Health Services.

(5) A "Community Health Status Assessment" shall be performed on a regular basis in each Community Health District in order to provide the information needed to implement the purposes and programs of the Board. The assessment shall include, but not be limited to:

a. Epidemiological research of community including age, sex, racial, and geographic factors.
b. Environmental health risk factors.
c. Availability, access, and utilization of prevention programs (medical, dental, educational).
d. Mental health and substance abuse factors.
e. Outcomes of health care programs and services in the District.
f. An estimate of the total private and public financial resources necessary to meet health needs within the District.
g. A survey of the health facilities available to meet the needs of hospitals, community clinics, school clinics, and high technology treatment facilities available outside hospitals.
h. A survey of the health care personnel and related human resources available to meet the health care needs of the District.
i. Priorities for improving community health status.

PART III.--SMALL EMPLOYER PURCHASING GROUPS

Sec. 3.1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 66.

"Health Care Purchasing Alliance Act.

"§ *143-621. Purpose and intent.*

The purpose and intent of this Article is to increase the affordability, efficiency, and fairness of health coverage for small employers.

The Article promotes the development of voluntary purchasing Alliances to provide affordable health care coverage for self-employed individuals and employees of participating small employers in the manner of large employer groups. The Alliances will allow members to benefit from the contracting expertise and the administrative savings that can result from the pooling of small employers and self-employed individuals.

These Alliances will make available through their contracting processes a choice of Accountable Health Carriers that arrange for

quality health services in a cost-effective manner. The Article establishes rules for fair competition among competing Accountable Health Carriers. These rules include the offering of comparable benefits by competing Accountable Health Carriers, risk assessment, and risk adjustment to assure competition based on a fair allocation of risk among Accountable Health Carriers, and the providing of data that measures clinical outcomes and other valid areas of Accountable Health Carrier performance.

Carriers throughout the health coverage market for small employers are required to use adjusted community rating, guarantee the continuity of coverage, adhere to limitations on the use of preexisting conditions, abolish individual medical underwriting, and follow rules limiting the use of participation requirements.

"*§ 143-622. Definitions.*

As used in this Article:

(1) 'Accountable Health Carrier' means a carrier registered with the Board pursuant to G.S. 143-626.

(2) 'Adjusted community rating' means a method used to develop carrier premiums which spreads financial risk across a large population and allows adjustments only for the following demographic factors: age, gender, number of family members covered, and geographic areas, as determined pursuant to G. S. 58-50-130(b).

(3) 'Alliance' means a State-chartered, nonprofit organization that provides health insurance purchasing services to member small employers in a market area regarding qualified health care plans offered by Accountable Health Carriers established pursuant to G.S. 143-629.

(4) 'Alliance Board' means the Alliance Board of Directors for a market area established pursuant to G.S. 143-627.

(5) 'Antitrust laws' means federal and State laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(6) 'Board' means the State Health Plan Purchasing Alliance Board.

(7) 'Carrier' means that as defined in G.S. 58-50-110(5).

(8) 'Community sponsor' means an organization that assumes responsibility for serving as the host for an Alliance in a market area.

(9) 'Dependent' means that as defined in G.S. 58-50-110(9).

(10) 'Eligible employee' means that as defined in G.S. 58-50-110(10).

(11) 'Employee enrollee' means an eligible employee or dependent of an eligible employee who is enrolled in a qualified health care plan.

(12) 'Fund' means the State Health Plan Purchasing Alliance Fund established under G.S. 143-635.

(13) 'Grievance procedure' means an established set of rules that specify a process for appeal of an organizational decision.

(14) 'Health benefit plan' means that as defined in G.S. 58-50-110(11).

(15) 'Late enrollee' means an eligible employee or a dependent of an eligible employee who requests enrollment in a qualified health care plan after the initial enrollment period for a member small employer, provided the enrollment is consistent with the Alliance's rules for initial enrollment and provided that the initial enrollment period shall extend for at least 30 consecutive calendar days. However, an eligible employee or dependent shall not be considered a late enrollee if:

a. The individual was covered under a public or private health benefit plan that provided at least the minimum level of benefits in qualified health care plans established pursuant to G.S. 58-50-120 at the time the individual was eligible to enroll and either:

1. Lost coverage under another health plan as a result of termination of employment, the termination of coverage under another health plan, or the death of a spouse or divorce and requests enrollment in a qualified health care plan within 30 days after termination of coverage; or

2. Stated, in writing, during the enrollment period that coverage under another employer's health benefit plan was the reason for declining coverage;

b. The individual elects a different health plan offered through an Alliance during an open enrollment period;

c. An eligible employee requests enrollment within 30 days of becoming an employee of a member small employer;

d. A court has ordered that coverage be provided for a spouse or minor child under a covered employee's health benefit plan and the request for enrollment is made within 30 days after issuance of the court order; or

e. The individual or employee enrollee makes a request for enrollment of the spouse or child within 30 days of his or her marriage or the birth or adoption of a child.

(16) 'Lowest cost plan' means the lowest cost qualified health care plan selected by a member small employer and offered to the employer's employee enrollees.

(17) 'Market area' means a clearly defined, nonoverlapping, and exclusive geographical area determined by the Board for the purpose of defining the region in which an Alliance shall operate.

(18) 'Member small employer' means a small employer who enrolls in an Alliance.

(19) 'Preexisting condition provision' means that as defined in G.S. 58-50-110(17).

(20) 'Premium' means that as defined in G.S. 58-50-110(18).

(21) 'Qualified health care plans' means the basic or standard health care plans offered by an Accountable Health Carrier to member small employers and as authorized by the Small Employer Carrier Committee pursuant to G.S. 58-50-120.

(22) 'Risk adjustment mechanism' means the process established pursuant to G.S. 143-633.

(23) 'Self-employed individual' means that as defined in G.S. 58-50-110(21a).

(24) 'Service area' means a geographic region in which a carrier is licensed to operate.

(25) 'Small employer' means that as defined in G.S. 58-50-110(22).

"*§ 143-623. Health benefit plans subject to Article.*

A health benefit plan is subject to this Article if it provides health benefits for small employers and if any of the following conditions are met:

(1) Any part of the premiums or benefits is paid by a small employer, or any covered individual is reimbursed, whether through wage or adjustments or otherwise, by a small employer for any portion of the premium;

(2) The health benefit plan is treated by the employer or any of the covered self-employed individuals as part of a plan or program for the purposes of Sections 106, 125, or 162 of the United States Internal Revenue Code; or

(3) The small employer has permitted payroll deductions for the eligible enrollees for the health benefit plans.

"*§ 143-624. Jurisdiction of the Department of Insurance.*

Nothing in this Article shall be deemed to be in conflict with or in limitation of the duties and powers granted to the Commissioner of

Insurance under Chapter 58 of the General Statutes. The Board and Alliances established under this Article shall bring to the attention of the Department of Insurance any suspected or alleged violations of this Article.

"§ 143-625. *Establishment of the Board; membership; terms; personnel.*

(a) There is established the State Health Plan Purchasing Alliance Board. The Board shall be established within the Department of Administration for administrative, organizational, and budgetary purposes only. The Department of Administration shall provide administrative and staff support to the Board. The Department of Insurance shall provide technical assistance as requested by the Board.

(b) The Board shall consist of 11 members, as follows:

(1) Three appointed by the Governor, at least one of whom shall be an owner or manager of a member small employer of an Alliance operating in North Carolina; and at least one of whom shall be an employee enrollee of an Alliance operating in North Carolina;

(2) Three appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121, at least one of whom shall be an owner or manager of a member small employer of an Alliance operating in North Carolina; and at least one of whom shall be an employee enrollee of an Alliance operating in North Carolina;

(3) Three appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, at least one of whom shall be an owner or manager of a member small employer of an Alliance operating in North Carolina; and at least one of whom shall be an employee enrollee of an Alliance operating in North Carolina;

(4) The Lieutenant Governor or his or her representative; and

(5) The Commissioner of Insurance or his or her representative.

(c) Members of the Board who are not officers or employees of the State shall receive compensation of two hundred dollars ($200.00) for each day or part of a day of service plus reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Board who are officers or employees of the State shall receive reimbursement for travel and subsistence at the rates specified in G.S. 138-6.

(d) Appointed members shall serve for four-year terms except that the initial terms of:

(1) Two members appointed by the Governor, two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, shall expire July 1, 1995; and

(2) One member appointed by the Governor, one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, shall expire July 1, 1997.

(e) At the end of a term, a member shall continue to serve until a successor is appointed. A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed. A member who serves two consecutive full four-year terms shall not be reappointed until four years after completion of those terms. A vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

(f) The Board shall elect officers biennially. Officers shall serve no more than two consecutive terms in an office.

(g) The Board shall appoint an executive director who shall serve at the pleasure of the Board. The executive director shall administer the affairs of the Board. The executive director may employ and direct staff necessary to carry out the provisions of this Article. Staff of the Board shall be covered under the State Personnel Act.

(h) The Board shall meet as needed at the times and places it determines. Such meetings and procedures shall be governed by the procedures and policies set forth in the North Carolina Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. A majority of the fully authorized membership of the Board is a quorum.

(i) No Board members or their spouses shall be employed by, affiliated with an agent of, or otherwise a representative of any carrier or health care provider.

(j) No individual shall be appointed to or remain a member of the Board if the individual, the individual's spouse, or the individual and spouse together, held securities or are otherwise the beneficiaries of securities worth ten thousand dollars ($10,000) or more at fair market value as of December 31 of the preceding year in a single health care business or aggregated among multiple health care businesses. For the purposes of this subsection, the term, 'health care business':

(1) Includes an association, corporation, enterprise, joint venture, organization, partnership, proprietorship, trust,

and every other business interest that provides or insures human health care.

(2) Does not include a widely held investment fund, regulated investment company, or pension or deferred compensation plan if neither the individual nor the individual's spouse has the ability to exercise control over the financial interests held by the fund.

"§ *143-626. Duties of the Board.*

The Board shall:

(1) Establish no less than four and no more than 12 market areas in this State. In establishing such market areas, the Board shall ensure that every location is a part of a market area. To the largest extent possible, the Board should consider metropolitan standard areas and other existing markets. The Board may redefine market areas where it determines there will be insufficient numbers of enrollees, health care providers, or qualifying Accountable Health Carriers to make such requirements feasible. Any such modifications are subject to annual review by the Board.

(2) Accept applications by carriers to qualify as Accountable Health Carriers, determine the eligibility of carriers to become Accountable Health Carriers according to criteria described in G.S. 143-629, and designate carriers as Accountable Health Carriers.

(3) Establish Alliances with community sponsors pursuant to G.S. 143-627 for each market area determined by the Board.

(4) Conduct annual reviews of the performance of each Alliance to ensure that the Alliance is in compliance with this Article. To assist the Board in its review, each Alliance shall submit data to the Board quarterly including, but not limited to, employer enrollment by employer size; industry sector; previous insurance status and number of employees within each insurance status; number of total eligible employers in the market area participating in the Alliance; number of insured lives by county and insured category, including employees, dependents and other insured categories, represented by Alliance members; profiles of potential employer membership by county; premium ranges for each qualified health care plan for Alliance member categories; type and resolution of member grievances; surcharges; and Alliance financial statements. A summary of this annual review shall be provided to the General Assembly and each Alliance.

(5) Develop standard enrollment procedures to be used in enrolling small employers and their eligible employees.

(6) Establish conditions of participation for small employers and self-employed individuals which shall conform to the requirements of this Article and G. S. 58-50-125(d) and include, but not be limited to, the following:

a. Assurances that the member small employer is a valid small employer group and is not formed for the purpose of securing health benefits coverage. This assurance must include requirements that sole proprietors and self-employed individuals have been in business for a reasonable period of time as established by the Board, have provided filings to verify employment status, and have provided other evidence, in the Board's discretion, to ensure that the individual is working;

b. A member small employer who opts to pay seventy percent (70%) or more of the cost of coverage may choose to offer a single qualified health care plan to its eligible employees. Eligible employees of other member small employers shall have the choice of at least two qualified health care plans. All member small employers may offer the qualified health care plans of more than one Accountable Health Carrier. The Board and Alliances shall encourage all member small employers to consider offering more than one Accountable Health Carrier;

c. Minimum employer contribution requirements that shall be an amount not less than fifty percent (50%) of the premium for an employee's coverage of the lowest cost plan. The Alliance shall require that the employer contribute the same dollar amount for each employee regardless of the qualified health care plan chosen by the employee;

d. A mechanism that will provide for participation if an employer chooses not to participate but one hundred percent (100%) of the eligible employees who are not covered under a health benefit plan elect to purchase their coverage through the Alliance; and

e. Prepayment of premiums or other mechanisms to assure that payment will be made for coverage.

(7) Ensure that any small employer or any employee of a small employer who meets the requirements established by the Board pursuant to subdivision (6) of this section may purchase health care coverage through an Alliance.

(8) Assure compliance with this Article by Alliances, small employers, and employee enrollees.

(9) Have the authority to request carrier information about the financial condition of the carrier consistent with the financial information required to be submitted by the carrier to the Department of Insurance.

(10) Assure fair and affirmative marketing of the qualified health care plans consistent with standards established by the Department of Insurance, the Small Employer Carrier Committee, and G.S. 143-632.

(11) Adopt rules in compliance with Chapter 150B of the General Statutes as necessary to administer the provisions of this Article.

(12) Appoint advisory committees that shall include persons with expertise in health benefits management and representatives of Accountable Health Carriers.

(13) Develop uniform standards for the data that Alliances collect from Accountable Health Carriers. In formulating such standards, the Board shall strive for consistency with health care data collection activities underway in North Carolina and nationally. Any data collection requirements promulgated by the Board shall be based on a study of their feasibility and cost-effectiveness, including their consistency with national standards for electronic data interchange, and their necessity for supporting the evaluation of Accountable Health Carriers and their provider networks with respect to cost containment, quality, control of expensive technology, and customer satisfaction. All enrollee satisfaction surveys employed by Alliances shall be in a standardized format promulgated by the Board.

(14) Have the authority to sue or be sued, including taking action necessary for securing legal remedies on behalf of, or against Alliances, member small employers, or employee enrollees and dependants of those employees.

(15) Have the authority to receive and accept grants or funds from any public or private agency and receive and accept contributions from any source of money, property, labor, or any other thing of value.

(16) Develop and implement standardized forms for use by Accountable Health Carriers in conformance with applicable national standards.

(17) Review, and limit if necessary, surcharges charged by each Alliance for administrative costs.

(18) Develop guidelines for any authorized marketing materials to be used in providing member small employers and their eligible employees with information regarding Accountable Health Carriers and their respective qualified health care plans in accordance with G.S. 143-632. Such guidelines shall be consistent with standards established by the Department of Insurance and the Small Employer Carrier Committee.

(19) Develop grievance procedures to be used in resolving disputes between member small employers and Alliances. A member small employer, Alliance or Accountable Health Carrier may appeal to the Board any grievance that is not resolved.

(20) Receive, review, and act on appeals of grievances not resolved.

(21) Analyze information collected from Accountable Health Carriers and other sources and report findings that assist consumers, Alliances, Accountable Health Carriers, or health care providers in improving the delivery or purchase of cost-effective health care.

(22) Report annually on the operation of the Board to the Joint Legislative Commission on Governmental Operations and the Governor.

"*§ 143-627. Alliances authorized.*

(a) The Board is authorized to create a single Alliance within each designated market area for the benefit of its member small employers. Each Alliance shall be operated as a State-chartered, nonprofit private organization.

(b) Each Alliance shall operate under the supervision of an Alliance Board of Directors, which shall consist of 11 members. The majority of members on each Alliance Board shall be small employers.

(1) The Board shall initially appoint six members for a term of two years. The community sponsor shall initially appoint five members for a term of two years. In so doing, the Board and community sponsor shall consider, among other things, whether all member small employers are fairly represented and assure that a majority of the Alliance Board shall be small employers.

(2) Subsequent members of the Alliance Board of Directors shall be elected pursuant to the Alliance Board's bylaws.

(c) Each Alliance Board shall adopt bylaws that shall include a procedure for the election of Alliance Board members by the Alliance's member small employers.

(d) Of the initially elected members of each Alliance Board, six members shall be designated to serve two-year terms and the remaining five members shall have four-year terms. Thereafter, the term of an elected member shall be four years.

(e) Vacancies on an Alliance Board shall be filled for the remaining period of the term by a majority vote of the remaining Board members. A member to fill a vacancy may serve for the remainder of the term and until a qualified successor is elected for a new term.

(f) A member who serves two consecutive full four-year terms shall not be reelected for four years after completion of those terms.

(g) Members of the Alliance Board shall be bound by the financial interest restrictions set forth for Board members in G.S. 143-625(i) and (j).

(h) The Alliance Board shall elect officers from among its members every two years. Officers shall not serve more than two consecutive terms in an office.

(i) The Alliance Board shall meet at times and places as it determines necessary to operate the Alliance in accordance with this section and G.S. 143-628. Such meetings shall be governed by the procedures and polices set forth by the North Carolina Open Meetings Law, Article 33C of Chapter 143 of the General Statutes.

(j) There shall be no liability on the part of, and no cause of action of any nature shall arise against any member of the Alliance Board, or its employees or agents, for any action taken in good faith by them in the performance of their powers and duties as defined under G.S. 143-628.

(k) The Alliance Board shall have the powers and duties regarding operation of the Alliance set forth in G.S. 143-628.

"*§ 143-628. Powers and duties of the Health Plan Purchasing Alliance.*

An Alliance shall have the following powers and duties:

(1) Enter into contracts with Accountable Health Carriers for the provision of qualified health care plans for members of the Alliance pursuant to G.S. 143-629. Each Alliance shall contract with all Accountable Health Carriers which offer qualified health care plans operating in its market area and apply to serve member small employers;

(2) Enter into contracts with small employers pursuant to G.S. 143-630;

(3) Maintain eligibility records as appropriate to carry out the functions of this Article;

(4) Transmit enrollment and eligibility information to Accountable Health Carriers on a timely basis;

(5) Establish procedures for collection of premiums from member small employers, including the share of premiums paid by employee enrollees pursuant to G. S. 143-630;

(6) Pay contracted rates to Accountable Health Carriers on a monthly basis or as otherwise mutually agreed pursuant to G.S. 143-631;

(7) Impose annual surcharges established at the beginning of the fiscal year to be paid monthly by member small employers for necessary costs incurred in connection with the operation of the Alliance. The amount of annual surcharges shall cover any default on insurer premium payments by member small employer.

(8) Provide that in the event a member small employer terminates coverage purchased through the Alliance, the former member small employer shall be ineligible to purchase a qualified health care plan through the Alliance for a period of two years, except as permitted by the Alliance Board and the Board for good cause;

(9) Contract, as authorized by the Alliance Board of Directors, with a qualified third party for any service necessary to carry out the powers and duties as defined in this section, including contracts with agents to assist in contracting with Accountable Health Carriers and small employers and to assist the Alliance in undertaking activities necessary to administer the Alliance, such as marketing and publicizing the availability of the qualified health care plans;

(10) Provide to member small employers clear, standardized information on each Accountable Health Carrier and qualified health care plans offered by each Accountable Health Carrier, including information on price, enrollee costs, quality, patient satisfaction, enrollment, and enrollee responsibilities and obligations; and provide qualified health care plan comparison sheets in accordance with Board rules to be used in providing members and their employees with information regarding coverage that may be obtained through the Accountable Health Carriers;

(11) Appoint an executive director to serve as the chief operating officer of the Alliance, who may employ other staff as needed to administer the Alliance. The executive director shall serve at the pleasure of the Alliance Board;

(12) Establish advisory boards as necessary to assist with carrying out the duties established pursuant to this section;

(13) Establish administrative and accounting procedures for operating the Alliance, providing services to member small

employers and employee enrollees, and preparing an annual budget;

(14) Prepare annual reports on the operations of the Alliance, including program and financial operations as required by the Board, and provide for annual internal and independent audits;

(15) Sue or be sued, including taking any legal actions necessary or proper for recovering any penalties for or on behalf of the Alliance;

(16) Maintain records and submit reports to the Board as required; and

(17) Accept and expend funds received through grants, appropriations, or other appropriate and lawful means.

"§ *143-629. Accountable health carriers.*

(a) By July 1, 1994, the Board shall establish a process whereby a carrier that fulfills the qualifications of subsection (b) of this section shall be designated as an Accountable Health Carrier.

(b) In order to be eligible to be designated as an Accountable Health Carrier, a carrier must be able to demonstrate the following operating characteristics to the Board:

(1) Licensure and in good standing with the Department of Insurance;

(2) Capacity to administer the qualified health care plans;

(3) In the case of a carrier with a contractual obligation to provide or arrange for the covered health services, the ability to provide enrollees with adequate access to covered services within the carrier's service area;

(4) Grievance procedures, including the ability to respond to enrollees' calls, questions, and complaints;

(5) Established utilization management procedures;

(6) Ability to arrange and pay for the appropriate level and type of health care services;

(7) Ability to monitor and evaluate the quality and cost-effectiveness of care;

(8) Ability to assure enrollees with adequate numbers and types of health care providers;

(9) Ability to provide information on enrollee satisfaction based on standard surveys prescribed by the Board; and

(10) Ability to provide information on the types of treatments and outcomes with respect to the clinical health, functional status, and well-being of the enrollees based on standard data elements prescribed by the Board.

Carriers receiving accreditation by nationally recognized accreditation organizations, including, but not limited to, the National Committee

on Quality Assurance (NCQA), the Utilization Review Accreditation Commission (URAC), Joint Commission on Accreditation of Health Care Organizations (JCAHO), or qualification by federal agencies, shall be deemed to be in compliance with the requirements of subdivisions (2) through (10) of this subsection as they pertain to the relevant accreditation activities of the organization.

(c) After notice and hearing, the Board may suspend or revoke the designation as an Accountable Health Carrier of any carrier that fails to maintain compliance with the requirements listed in subsections (b), (d), or (e) of this section.

(d) Each Accountable Health Carrier shall:

(1) Offer qualified health care plans;

(2) Provide for the collection and reporting to the Board and to the appropriate Alliance of information on the performance of Accountable Health Carriers regarding the effectiveness and outcomes in providing selected services; provided, however, that data reporting requirements adopted by the Board shall be consistent with the method of operation of Accountable Health Carriers, shall be consistent with national standards where available, and shall not impose an unreasonable cost for compliance;

(3) Not deny, limit, or condition coverage under qualified health care plans based on health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability of an eligible employee or dependent pursuant to the provisions of this Article;

(4) Establish premium rates for each qualified health care plan pursuant to the adjusted community rating method described in G.S. 58-50-130(b);

(5) Comply with all rules regarding rating, underwriting, claims handling, sales, solicitation, licensing, unfair trade practices and other provisions in this Article and Chapter 58 of the General Statutes.

(6) Issue a qualified health care plan to any member small employer that elects to be covered under a qualified health care plan offered by an Accountable Health Carrier during the open enrollment period established pursuant to subsection (e) of this section;

(7) Renew each qualified health care plan with respect to any member small employer except in the following cases:

a. Nonpayment of the required premiums;

b. Fraud or material misrepresentation of the member small employer, or the employee enrollee, or a

dependent of the member small employer or the employee enrollee;

c. Noncompliance by a small employer with requirements regarding employer contribution or participation as required by the Board;

d. Repeated misuse of a provider network provision including, but not limited to, unreasonable refusal of the enrollee to follow a prescribed course of treatment, or violation of reasonable policies of an Accountable Health Carrier;

e. Election by the Accountable Health Carrier to terminate its contract with an Alliance. In such a case, the Accountable Health Carrier shall:

1. Provide advance notice of its decision in accordance with this sub-subdivision to the Alliance and to the Board;

2. Provide notice of the decision at least 180 days prior to the nonrenewal of any qualified health care plan to the enrollees. Except as provided in sub-subdivision f. of this subdivision an Accountable Health Carrier that elects not to renew a qualified health care plan with an Alliance shall be prohibited from writing new business with the Alliance for a period of three years from the date of notice to the Alliance or until the Alliance invites the carrier to renew participation, whichever is sooner; and

f. Determination by an Alliance, subject to review by the Board, that continuation of coverage would not be in the best interest of the employee enrollees and member small employers or would impair the Accountable Health Carrier's ability to meet its contractual obligations. In this instance, the Alliance shall assist affected employee enrollees in finding replacement coverage;

(8) Provide a procedure for addressing grievances that arise between the Accountable Health Carrier and the Alliance, member small employers, or employee enrollees; and

(e) Each Accountable Health Carrier shall offer an open enrollment period to small employers at the anniversary date of the member small employers' qualified health care plan. The open enrollment period shall be at least 30 consecutive calendar days. Member small employers may choose from the Accountable Health Carriers selected from the qualified health care plans that are offered in the market area in which they reside. An Accountable Health

Carrier shall not be required to offer coverage or accept enrollments if:

(1) The eligible employee or dependent does not reside within the Accountable Health Carrier's approved service area;

(2) An Accountable Health Carrier provides 90 days' prior notice that it will not have the capacity to deliver service adequately in a market area to additional enrollees because of its obligations to existing groups and enrollees; or

(3) The Commissioner of Insurance determines that the acceptance of an application or applications would place an Accountable Health Carrier in a financially impaired condition.

(f) An Accountable Health Carrier that cannot offer coverage pursuant to subdivision (2) of subsection (e) of this section shall not offer coverage to or accept applications from a new employer group or an individual until the later of 90 days following such refusal or the date on which the Accountable Health Carrier notifies the Alliance and the Board that it has regained capacity to deliver services to eligible employees and their dependents in the service area. An Accountable Health Carrier that cannot offer coverage pursuant to subdivision (3) of subsection (e) of this section shall not offer coverage or accept applications for any individual or employer group until a determination by the Commissioner of Insurance that acceptance of an application will not put the Accountable Health Carrier in a financially impaired condition.

(g) Nothing in this Article or any other provision of the General Statutes shall prohibit an Accountable Health Carrier from providing a qualified health care plan in an Alliance through a managed-care system, and from contracting with particular health care providers or types, classes, or categories of health care providers.

"*§ 143-630. Payment to Alliance by member small employers.*

The contracts between Alliances and member small employers and between Accountable Health Carriers and Alliances shall provide that payment of all premiums shall be transmitted by member small employers on their behalf and on behalf of the employee enrollee, directly to the Alliance for the benefit of the Accountable Health Carrier. Premiums shall be payable on a monthly basis. Alliances may provide for penalties and grace periods for late payment. Nonpayment of premiums by a member small employer or employee enrollee shall constitute a breach of contract and a breach of the insurance policy.

"*§ 143-631. Payment by Alliance to Accountable Health Carriers.*

(a) Under a contract between an Accountable Health Carrier and an Alliance, the Alliance shall forward to each Accountable Health

Carrier with enrollees under a qualified health care plan an amount equal to:

(1) Premiums determined by the Accountable Health Carrier's contracted rates; and

(2) Adjustments in payments, if any, resulting from a risk adjustment mechanism determined in accordance with G.S. 143-633.

(b) The Alliances shall pay the Accountable Health Carrier on a monthly basis.

"§ *143-632. Marketing qualified health care plans.*

(a) Each Alliance shall use efficient and standardized means to notify small employers of the availability of sponsored health coverage through the Alliance.

(b) Each Alliance shall make available to member small employers marketing materials accurately summarizing the benefit plans, rates, cost, and accreditation information that its Accountable Health Carriers offer through the Alliance.

(c) If authorized by the Board, an Accountable Health Carrier may provide, directly or through an agent, broker, or contractor, marketing material relating to health plans offered through the Alliance. Accountable Health Carriers shall not need authorization from an Alliance for advertisement to the public at large through the means of mass media.

(d) Nothing in this section shall be construed to or explicitly prohibit an Alliance or Accountable Health Carrier from using the services of an agent or broker in order to assist in marketing. An Accountable Health Carrier shall not vary compensation or commissions to such agents or brokers based, directly or indirectly, on the anticipated or actual claims experience or health status associated with particular small employers to which each plan is sold.

(e) No Accountable Health Carrier, agent of an Accountable Health Carrier or independent insurance agent shall engage, directly or indirectly, in any activity of marketing practices that would encourage member small employers or eligible employees to:

(1) Refrain from enrolling in the Accountable Health Carrier because of their health status or claim experience; or

(2) Seek coverage from other Accountable Health Carriers because of their health status or claim experience.

(f) An Alliance shall notify the Board of any marketing practices or materials that it finds contrary to the fair and affirmative marketing requirements of this Article. Furthermore, the Board shall monitor compliance with this section, including the conduct of Accountable Health Carriers and their agents, brokers, or contractors, and shall report to the Department of Insurance any unfair trade practices and

misleading or unfair conduct that has been reported to the Board by Alliances, agents, consumers, or any other individual. The Department of Insurance shall investigate all reports and, upon a finding of noncompliance with this section or of unfair and misleading practices, shall take action against violators as permitted under Chapter 58 of the General Statutes or this Article. The Board shall forward all reports of cases or abuse to the Department of Insurance for investigation.

"§ *143-633. Risk adjustment mechanism.*

(a) The Board shall establish a payment mechanism to adjust for the amount of risk covered by each qualified health care plan offered by an Accountable Health Carrier. Risk adjustment shall be based on prospectively determined factors that predict utilization of health care services.

(b) On an annual basis, the Board shall establish a factor that represents the difference between the average risk of persons covered through the Alliance and the risk covered by each qualified health care plan offered by each Accountable Health Carrier through the Alliance. The Board shall apply that factor in determining amounts received by Accountable Health Carriers. This may be done directly or it may be done indirectly by adjusting quoted premiums. The mechanism by which the adjustment is made shall be established after consultation with a technical advisory committee.

(c) In addition to the risk adjustment mechanism described in subsections (a) and (b) of this section, the Board may develop a list of a limited number of high cost diagnoses. The Board may develop a mechanism to protect an Accountable Health Carrier that has a disproportionate share of one or more of the listed diagnoses.

(d) Any payments to Accountable Health Carriers under this section shall be determined on an annual basis. No payments under this section shall be based on claims or the health care costs of an Accountable Health Carrier.

"§ *143-634. Antitrust protection.*

In addition to the duties described in G.S. 143-626, the Board shall actively supervise the Alliances to ensure that actions affecting market competition are not for private interests, but accomplish the legislative intent of this Article. The Board shall also monitor conduct throughout the small employer market to ensure that the legislative intent of this Article to improve the competitiveness of the small employer health coverage market is not impeded.

"§ *143-635. State Health Plan Purchasing Alliance Fund.*

(a) There is established in the Office of the State Treasurer, the State Health Plan Purchasing Alliance Fund. The Fund shall be placed in an interest-bearing account and any interest or other income

derived from the Fund shall be credited to the Fund. Moneys in the Fund shall be spent only in accordance with subsection (b) of this section. The Fund shall be administered in accordance with the Executive Budget Act.

(b) All money credited to the Fund shall be used as set forth by the Board.

(c) Moneys appropriated by the General Assembly shall be deposited in the Fund and shall become part of the continuation budget of the Department of Administration.

"*§ 143-636. Continuation and conversion of coverage.*

(a) For member small employers not covered by Subtitle B of Title III, Public Law 100-647 (26 U.S.C. § 4980B), enrollees who lose their health care coverage due to loss of employment shall be offered the option of continuing health care coverage for one year, provided such enrollee pays the entire required premium charged to the enrollee's former employer and remains a resident of the State. An enrollee shall transmit payment of premium payments through the enrollee's former employer, who shall submit it to the respective Alliance.

(b) At the end of one year of continuation coverage, such enrollees shall be offered a conversion option if such option, where available, is available for former group enrollees."

Sec. 3.2. G.S. 58-50-130(b) reads as rewritten:

"(b) Premium rates for health benefit plans subject to this Act are subject to the following provisions:

(1) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than ~~twenty-five percent (25%),~~ twelve and one-half percent (12.5%), adjusted pro rata for any rating period of less than one year.

(2) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to those employers under the rating system for that class of business shall not vary from the index rate by more than ~~thirty-five percent (35%)~~ twenty-five percent (25%) of the index rate, adjusted pro rata for any rating period of less than one year.

(3) The percentage increase in the premium rate charged to a small employer for a new rating period, adjusted pro rata for any rating period of less than one year, may not exceed the sum of the following:

a. The percentage change in the new business premium rate measured from the first day of the prior rating

period to the first day of the new rating period. If a small employer carrier is not issuing any new policies, but is only renewing policies, the carrier shall use the percentage change in the base premium rate.

b. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for any rating period of less than one year, due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business.

c. Any adjustment because of a change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

(4) Any adjustment in rates charged by a small employer carrier electing to be a reinsuring carrier that is caused by reinsurance is subject to the rating limitations set forth in this section.

(5) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any reinsurance premiums and assessments paid or payable by small employer carriers in accordance with G.S. 58-50-150.

(6) In any case where a small employer carrier uses industry as a case characteristic in establishing premium rates, the rate factor associated with any industry classification may not vary from the arithmetic average of the rate factors associated with all industry classifications by greater than ~~fifteen percent (15%)~~ seven and one-half percent (7 ½%) of coverage.

(7) In the case of health benefit plans issued before January 1, 1992, a premium rate for a rating period, adjusted pro rata for any rating period of less than one year, may exceed the ranges set forth in subdivisions (b)(1) and (2) of this section for a period of three years after January 1, 1992. In that case, the percentage increase in the premium rate charged to a small employer in such a class of business for a new rating period may not exceed the sum of the following:

a. The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. If a small employer carrier is not issuing any new policies, but is only renewing policies, the small employer carrier

shall use the percentage change in the base premium rate.

b. Any adjustment because of a change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual for the class of business.

(8) Small employer carriers shall apply rating factors including case characteristics, consistently with respect to all small employers in a class of business. Adjustments in rates for claims experience, health status, and duration from issue may not be applied individually. Any such adjustment must be applied uniformly to the rate charged for all participants of the small employer."

Sec. 3.3. G.S. 58-50-110, as amended by Chapter 408 of the 1993 Session Laws, reads as rewritten:

"*§ 58-50-110. Definitions.*

As used in this Act:

(1) 'Actuarial certification' means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the Commissioner that a small employer carrier is in compliance with the provisions of G.S. 58-50-130, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(1a) 'Accountable Health Carrier' means that as defined in G.S. 143-622(1).

(1b) 'Adjusted community rating' means a method used to develop carrier premiums which spreads financial risk across a large population and allows adjustments for the following demographic factors: age, gender, family composition, and geographic areas, as determined pursuant to G.S. 58-50-130(b).

~~(2) 'Base premium rate' means for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business, by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.~~

(3) 'Basic health care plan' means a health care plan for small employers that is lower in cost than a standard health care plan and is required to be offered by all small employer carriers pursuant to G.S. 58-50-125 and

approved by the Commissioner in accordance with G.S. 58-50-125.

(4) 'Board' means the board of directors of the Pool.

(5) 'Carrier' means any person that provides one or more health benefit plans in this State, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization (HMO), and a multiple employer welfare arrangement.

~~(6) 'Case characteristics' means demographic or other objective characteristics of a small employer, as determined by a small employer carrier, that are considered by the small employer carrier in the determination of premium rates for the small employer; but does not mean claim experience, health status, and duration of coverage since issue.~~

~~(7) 'Class of business' means all or a distinct grouping of small employers as shown on the records of a small employer carrier.~~

(8) 'Committee' means the Small Employer Carrier Committee as created by G.S. 58-50-120.

(9) 'Dependent' means the spouse or child of an eligible employee, subject to applicable terms of the health care plan covering the employee.

(10) 'Eligible employee' means an employee who works for a small employer on a full-time basis, with a normal work week of 30 or more hours, including a sole proprietor, a partner or a partnership, or an independent contractor, if included as an employee under a health care plan of a small employer; but does not include employees who work on a part-time, temporary, or substitute basis.

(11) 'Health benefit plan' means any accident and health insurance policy or certificate; nonprofit hospital or medical service corporation contract; health, hospital, or medical service corporation plan contract; HMO subscriber contract; plan provided by a MEWA or plan provided by another benefit arrangement, to the extent permitted by ERISA, subject to G.S. 58-50-115. Health benefit plan does not mean accident only, specified disease only, fixed indemnity, credit, or disability insurance; coverage of Medicare services pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; dental only or vision only insurance; coverage issued as a supplement to liability insurance; insurance arising out of a workers'

compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(12) 'Impaired insurer' has the same meaning as prescribed in G.S. 58-62-20(6) or G.S. 58-62-16(8).

~~(13) 'Index rate' means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.~~

(14) 'Late enrollee' means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer after the end of the initial enrollment period provided under the terms of the health benefit plan in effect at the time the employee first became eligible; provided that the initial enrollment period shall be a period of at least 30 consecutive calendar days. However, an eligible employee or dependent shall not be considered a late enrollee if:

a. The ~~individual:~~

~~1.~~ ~~Was~~ individual was covered under ~~another employer~~ a public or private health benefit plan that provided, at the time the individual was eligible to ~~enroll;~~ enroll, the same required level of benefits in the basic and standard health care plans adopted pursuant to G.S. 58-50-120 and either the individual:

1. Lost coverage under another health plan as a result of termination of employment, termination of a spouse's health plan coverage, or the death of a spouse or divorce and requests enrollment in a basic or standard health care plan within 30 days after termination of coverage provided under another health plan; or
2. Stated, ~~at the time of the initial enrollment,~~ in writing, during the enrollment period that coverage under another employer health benefit plan was the reason for declining ~~enrollment;~~ coverage;
3. ~~Has lost coverage under another employer health benefit plan as a result of termination of employment, the termination of the other plan's coverage, death of a spouse, or divorce; and~~

~~4. Requests enrollment within 30 days after termination of coverage provided under another employer health benefit plan;~~

~~b. The individual is employed by an employer that offers multiple health benefit plans and the individual elects a different plan during an open enrollment period; or~~

b. The individual elects a different health plan offered through the Alliance during an open enrollment period;

c. An eligible employee requests enrollment within 30 days of becoming an employee of a member small employer;

~~c.~~d. A court has ordered coverage be provided for a spouse or minor child under a covered employee's health benefit plan and the request for enrollment is made within 30 days after issuance of the court ~~order.~~ order; or

e. The individual or employee enrollee makes a request for enrollment of the spouse or child within 30 days of the individual or employee's marriage or the birth or adoption of a child.

~~(15) 'New business premium rate' means, for each class of business as to a rating period, the lowest premium rate charged, offered, or that could have been charged by a small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.~~

(16) 'Pool' means the North Carolina Small Employer Health Reinsurance Pool created in G.S. 58-50-150.

(17) 'Preexisting-conditions provision' means a policy provision that limits or excludes coverage for charges or expenses incurred during a specified period following the insured's effective date of coverage, for a condition that, during a specified period immediately preceding the effective date of coverage, had manifested itself in a manner that would cause an ordinary prudent person to seek diagnosis, care, or treatment, or for which medical advice, diagnosis, care, or treatment was recommended or received as to that condition or as to pregnancy existing on the effective date of coverage.

(18) 'Premium' includes insurance premiums or other fees charged for a health benefit plan, including the costs of benefits paid or reimbursements made to or on behalf of persons covered by the plan.

(19) 'Rating period' means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect, as determined by the small employer carrier.

(20) 'Risk-assuming carrier' means a small employer carrier electing to comply with the requirements set forth in G.S. 58-50-140.

(21) 'Reinsuring carrier' means a small employer carrier electing to comply with the requirements set forth in G.S. 58-50-145.

(21a) 'Self-employed individual' means an individual or sole proprietor who derives a majority of his or her income from a trade or business carried on by the individual or sole proprietor which results in taxable income as indicated on IRS form 1040, Schedule C or F and which generated taxable income in one of the two previous years.

(22) 'Small employer' means any ~~person~~ individual actively engaged in business that, on at least fifty percent (50%) of its working days during the preceding ~~year,~~ calendar quarter, employed no more than 49 eligible ~~employees and not less than two eligible employees,~~ employees, the majority of whom are employed within this ~~State.~~ State, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. ~~Small employer includes companies that are affiliated companies, as defined in G.S. 58-19-5(1) or that are eligible to file a combined tax return under Chapter 105 of the General Statutes or under the Internal Revenue Code.~~ In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this State, shall be considered one employer. Subsequent to the issuance of a health benefit plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, the provisions of this Act that apply to a small employer shall continue to apply until the plan anniversary following the date the small employer no longer meets the requirements of this ~~section.~~ definition. For purposes of this Act, the term small employer includes self-employed individuals.

(23) 'Small employer carrier' means any carrier that offers health benefit plans covering eligible employees of one or more small employers.

(24) 'Standard health care plan' means a health care plan for small employers required to be offered by all small employer carriers under G.S. 58-50-125 and approved by the Commissioner in accordance with G.S. 58-50-125."

Sec. 3.4. G.S. 58-50-113 is repealed.

Sec. 3.5. G.S. 58-50-115 reads as rewritten:

"*§ 58-50-115. Health benefit plans subject to Act.*

~~(a)~~ A health benefit plan is subject to this Act if it provides health benefits for small employers or self-employed individuals and if any of the following conditions are met:

(1) Any part of the premiums or benefits is paid by a small employer or any covered individual is reimbursed, whether through wage or adjustments or otherwise, by a small employer for any portion of the premium; ~~or for which the small employer has permitted payroll deduction for the covered individual, whether or not the coverage is issued through a group or individual policy of insurance, and whether or not the small employer pays any part of the premium.~~

(2) The health benefit plan is treated by the employer or any of the covered self-employed individuals as part of a plan or program for the purpose of ~~section 162 or section 106~~ sections 106, 125, or 162 of the United States Internal Revenue ~~Code.~~ Code; or

(3) The small employer or self-employed individuals have permitted payroll deductions for the eligible enrollees for the health benefit plans.

~~(b) The provisions of G.S. 58-51-95(f) do not apply to individual accident and health insurance policies or contracts to the extent subject to the provisions of this Act.~~"

Sec. 3.6. G.S. 58-50-125 reads as rewritten:

"*§ 58-50-125. Health care plans; formation; approval; offerings.*

(a) To improve the availability and affordability of health benefits coverage for small employers, the Committee shall recommend to the Commissioner two plans of coverage, one of which shall be a basic health care plan and the second of which shall be a standard health care plan. Each plan of coverage shall be in two forms, one of which shall be in the form of insurance and the second of which shall be consistent with the basic method of operation and benefit plans of HMOs, including federally qualified HMOs. On or before January 1, 1992, the Committee shall file a progress report with the

Commissioner. The Committee shall submit the recommended plans to the Commissioner for approval within 180 days after the appointment of the Committee under G.S. 58-50-120. The Committee shall take into consideration the levels of health benefit plans provided in North Carolina, and appropriate medical and economic factors, and shall establish benefit levels, cost sharing, exclusions, and limitations. Notwithstanding subsection (c) of this section, in developing and approving the plans, the Committee and the Commissioner shall give due consideration to cost-effective and life-saving health care services and to cost-effective health care providers. The Committee shall file with the Commissioner its findings and recommendations, and reasons for the findings and recommendations, if it does not provide for coverage by any type of health care provider specified in G.S. 58-50-30. The recommended plans may include cost containment features such as, but not limited to: preferred provider provisions; utilization review of medical necessity of hospital and physician services; case management benefit alternatives; or other managed care provisions.

(b) After the Commissioner's approval of the plans submitted by the Committee under subsection (a) of this section and in lieu of any contrary procedure established by this Chapter, any small employer carrier may certify to the Commissioner, in the form and manner prescribed by the Commissioner, that the basic and standard health care plans filed by the carrier are in substantial compliance with the provisions of the corresponding approved Committee plans. Upon receipt by the Commissioner of the certification, the carrier may use the certified plans unless their use is disapproved by the Commissioner.

(c) The plans developed under this section are not required to provide coverage that meets the requirements of other provisions of this Chapter that mandate either coverage or the offer of coverage by the type or level of health care services or health care provider.

(d) Within 180 days after the Commissioner's approval under subsection (b) of this section, every small employer carrier shall, as a condition of transacting business in this State, offer small employers at least one basic and one standard health care plan. Every small employer that elects to be covered under such a plan and agrees to make the required premium payments and to satisfy the other provisions of the plan shall be issued such a plan by the small employer carrier. The premium payment requirements used in connection with basic and standard health care plans may address the potential credit risk of small employers that elect coverage in accordance with this subsection by means of payment security provisions that are reasonably related to the risk and are uniformly applied.

If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all eligible employees of a small employer and their dependents. A small employer carrier shall not offer coverage to only certain individuals in a small employer group except in the case of late enrollees as provided in G.S. 58-50-130(a)(4). A small employer carrier shall not modify any health benefit plan with respect to a small employer, any eligible employee, or dependent through riders, endorsements, or otherwise, in order to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan. In the case of an eligible employee or dependent of an eligible employee who, before the effective date of the plan, was excluded from coverage or denied coverage by a small employer carrier in the process of providing a health benefit plan to an eligible small employer, the small employer carrier shall provide an opportunity for the eligible employee or dependent of an eligible employee to enroll in the health benefit plan currently held by the small employer.

(e) No small employer carrier is required to offer coverage or accept applications under subsection (d) of this section:

(1) From a group already covered under a health benefit plan except for coverage that is to begin after the group's anniversary date, but this subsection shall not be construed to prohibit a group from seeking coverage or a small employer carrier from issuing coverage to a group before its anniversary date; or

(2) If the Commissioner determines that acceptance of an application or applications would result in the carrier being declared an impaired insurer. ~~insurer; or~~

~~(3) To groups of fewer than five eligible employees where the small employer carrier does not use preexisting-conditions provisions in all health benefit plans it issues to any small employers.~~

~~If a small employer carrier who does not use preexisting conditions chooses to market to groups of less than five, then it shall immediately notify the Commissioner and the Board, and it shall do so consistently and equally to all such small employer groups.~~

(f) Every small employer carrier shall fairly market the basic and standard health care plan to all small employers in the geographic areas in which the carrier makes coverage available or provides benefits.

(g) No HMO operating as either a risk-assuming carrier or a reinsuring carrier is required to offer coverage or accept applications under subsection (d) of this section in the case of any of the following:

(1) To a ~~group, where the~~ group that is not physically located in the HMO's approved service areas;

(2) To an ~~employee, where the~~ employee who does not reside within the HMO's approved service areas;

(3) Within an area, where the HMO can reasonably ~~anticipates,~~ anticipate, and ~~demonstrates~~ demonstrate, to the Commissioner's satisfaction, that it will not have the capacity within that area and its network of providers to deliver services adequately to the enrollees of those groups because of its obligations to existing group contract holders and enrollees.

An HMO that does not offer coverage pursuant to subdivision (3) of this subsection may not offer coverage in the applicable area to new employer groups with more than ~~25~~ 49 eligible employees until the later of 90 days after that closure or the date on which the carrier notifies the Commissioner that it has regained capacity to deliver services to small employers.

(h) The provisions of subsections (b), (d), and (g) and subdivision (e)(2) of this section apply to every health benefit plan delivered, issued for delivery, renewed, or continued in this State or covering persons residing in this State on or after the date the plan becomes operational, as determined by the Commissioner. For purposes of this subsection, the date a health benefit plan is continued is the anniversary date of the issuance of the health benefit plan."

Sec. 3.7. G.S. 58-50-130, as rewritten by Section 3.2 of this act and by Section 6 of Chapter 408 of the 1993 Session Laws, reads as rewritten:

"*§ 58-50-130. Required health care plan provisions.*

"(a) Health benefit plans covering small employers are subject to the following provisions:

(1) Except in the case of a late enrollee, any preexisting-conditions provision may not limit or exclude coverage for a period beyond 12 months following the insured's initial effective date of coverage and must define preexisting conditions as 'those conditions for which medical advice or treatment was received or recommended or that could be medically documented within the 12-month period immediately preceding the effective date of the person's coverage'.

(2) In determining whether a preexisting-conditions provision applies to an eligible employee or to a dependent, all health benefit plans shall credit the time the person was covered under a previous group health benefit plan if the previous coverage was continuous to a date not more than 60 days

before the effective date of the new coverage, exclusive of any applicable waiting period under the plan.

(3) The health benefit plan is renewable with respect to all eligible employees or dependents at the option of the policyholder or contract holder except:

a. For nonpayment of the required premiums by the policyholder or contract holder;

b. For fraud or misrepresentation of the policyholder or contract holder or, with respect to coverage of individual enrollees, the enrollees, or their representatives;

c. For noncompliance with plan provisions that have been approved by the Commissioner;

d. When the number of enrollees covered under the plan is less than the number of insureds or percentage of enrollees required by participation requirements under the plan; or

e. When the policyholder or contract holder is no longer actively engaged in the business in which it was engaged on the effective date of the plan.

f. When the small employer carrier stops writing new business in the small employer market, if:

1. It provides notice to the Department and either to the policyholder, contract holder, or employer, of its decision to stop writing new business in the small employer market; and

2. It does not cancel health benefit plans subject to this Act for 180 days after the date of the notice required under paragraph 1; and for that business of the carrier that remains in force, the carrier shall continue to be governed by this Act with respect to business conducted under this Act.

A small employer carrier that stops writing new business in the small employer market in this State after January 1, 1992, shall be prohibited from writing new business in the small employer market in this State for a period of five years from the date of notice to the Commissioner. In the case of an HMO doing business in the small employer market in one service area of this State, the rules set forth in this subdivision shall apply to the HMO's operations in the service area, unless the provisions of G.S. 58-50-125(g) apply.

(4) Late enrollees may be excluded from coverage for the greater of 18 months or an 18-month preexisting-condition exclusion; however, if both a period of exclusion from

coverage and a preexisting-condition exclusion are applicable to a late enrollee, the combined period shall not exceed 18 months. If a period of exclusion from coverage is applied, a late enrollee shall be enrolled at the end of such period in the health benefit plan currently held by the small employer.

~~(5) A carrier may continue to enforce reasonable employer participation and contribution requirements on small employers applying for coverage; however, participation and contribution requirements may vary among small employers only by the size of the small employer group, and the minimum participation for a small employer group must be the greater of two or twenty-five percent (25%) of eligible employees. In applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met. 'Qualifying existing coverage' means benefits or coverage provided under: (i) Medicare or Medicaid; or (ii) an employer-based health insurance or health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health care plan.~~

(5) Notwithstanding any other provision of this Chapter, no small employer carrier, insurer, subsidiary of an insurer, or controlled individual of a holding company shall act as an administrator or claims paying agent, as opposed to an insurer, on behalf of small groups which, if they purchased insurance, would be subject to this section. No small employer carrier, insurer, subsidiary of an insurer, or controlled individual of a holding company shall provide stop loss, catastrophic, or reinsurance coverage to small groups which, if they were purchased, would be subject to this section.

(6) If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all eligible employees of a small employer and their dependents. A small employer carrier shall not offer coverage to only certain individuals in a small employer group except in the case of late enrollees as provided in G.S. 58-50-130(a)(4).

(7) A small employer carrier shall not modify any health benefit plan with respect to a small employer, any eligible employee, or dependent through riders, endorsements, or otherwise, in order to restrict or exclude coverage for certain

diseases or medical conditions otherwise covered by the health benefit plan.

(8) In the case of an eligible employee or dependent of an eligible employee who was excluded from or denied coverage by a small employer carrier on or before August 14, 1992, the small employer carrier shall provide an opportunity for such eligible employee or dependent to enroll in the health benefit plan currently held by the small employer not later than the next plan anniversary on or after August 14, 1992.

~~(b) Premium rates for health benefit plans subject to this Act are subject to the following provisions:~~

~~(1) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twelve and one half percent (12.5%), adjusted pro rata for any rating period of less than one year.~~

~~(2) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to those employers under the rating system for that class of business shall not vary from the index rate by more than twenty-five percent (25%) of the index rate, adjusted pro rata for any rating period of less than one year.~~

~~(3) The percentage increase in the premium rate charged to a small employer for a new rating period, adjusted pro rata for any rating period of less than one year, may not exceed the sum of the following:~~

~~a. The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. If a small employer carrier is not issuing any new policies, but is only renewing policies, the carrier shall use the percentage change in the base premium rate.~~

~~b. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for any rating period of less than one year, due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business.~~

~~c. Any adjustment because of a change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.~~

~~(4) Any adjustment in rates charged by a small employer carrier electing to be a reinsuring carrier that is caused by reinsurance is subject to the rating limitations set forth in this section.~~

~~(5) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any reinsurance premiums and assessments paid or payable by small employer carriers in accordance with G.S. 58-50-150.~~

~~(6) In any case where a small employer carrier uses industry as a case characteristic in establishing premium rates, the rate factor associated with any industry classification may not vary from the arithmetic average of the rate factors associated with all industry classifications by greater than seven and one half percent (7.5%) of coverage.~~

~~(7) In the case of health benefit plans issued before January 1, 1992, a premium rate for a rating period, adjusted pro rata for any rating period of less than one year, may exceed the ranges set forth in subdivisions (b)(1) and (2) of this section for a period of three years after January 1, 1992. In that case, the percentage increase in the premium rate charged to a small employer in such a class of business for a new rating period may not exceed the sum of the following:~~

~~a. The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. If a small employer carrier is not issuing any new policies, but is only renewing policies, the small employer carrier shall use the percentage change in the base premium rate.~~

~~b. Any adjustment because of a change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual for the class of business.~~

~~(8) Small employer carriers shall apply rating factors including case characteristics, consistently with respect to all small employers in a class of business. Adjustments in rates for claims experience, health status, and duration from issue may not be applied individually. Any such adjustment must be applied uniformly to the rate charged for all participants of the small employer.~~

(b) For all small employer health benefit plans that are subject to this section and are issued on or after January 1, 1995, premium rates for health benefit plans subject to this section are subject to the following provisions:

(1) Small employer carriers shall use an adjusted-community rating methodology in which the premium for each small employer can vary on the basis of the eligible employee's or dependent's age as determined in accordance with subdivision (6) of this subsection, the gender of the eligible employee or dependent, number of family members covered, or geographic area as determined under subdivision (7) of this subsection;

(2) Rating factors related to age, gender, number of family members covered, or geographic location may be developed by each carrier to reflect the carrier's experience. The factors used by carriers are subject to the Commissioner's review;

(3) Small employer carriers shall not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changed by twenty percent (20%) or more or benefits are changed;

(4) Carriers participating in an Alliance in accordance with the Health Care Purchasing Alliance Act may apply a different community rate to business written in that Alliance;

(5) In the case of health benefit plans issued before January 1, 1995, a premium rate for a rating period, adjusted pro rata for any rating period of less than one year, may vary from the adjusted community rating index line, as determined by the small employer carrier and in accordance with subdivisions (1), (2), (3), and (4) of this subsection, for a period of two years after January 1, 1995, as follows:

a. On January 1, 1995, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to those employers under the rating system for that class of business shall not vary from the adjusted community rate by more than twenty percent (20%) of the index rate, adjusted pro rata for any rating period of less than one year;

b. On January 1, 1996, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to those employers under the rating system for that class of business shall not vary from the adjusted community rate by more than ten percent (10%) of the index rate, adjusted pro rata for any rating period of less than one year; and

c. On January 1, 1997, all small employer benefit plans that are subject to this section and are issued by small employer carriers before January 1, 1997, and that are renewed on or after January 1, 1997, renewal rates shall be based on the same adjusted community rating standard applied to new business.

(6) For the purposes of subsection (b) of this section, a small employer carrier shall not use age brackets of less than five years;

(7) For the purposes of subsection (b) of this section, a carrier shall not apply different geographic rating factors to the rates of small employers located within the same county; and

(8) The Department of Insurance may, by rule, establish regulations to administer this subsection and to assure that rating practices used by small employer carriers are consistent with the purposes of this subsection. Those regulations shall include consideration of differences based on the following:

a. Health benefit plans that use different provider network arrangements may be considered separate plans for the purposes of determining the rating in subdivision (1) of this subsection, provided that the different arrangements are expected to result in substantial differences in claims costs;

b. Except as provided for in sub-subdivision a. above, differences in premium rates charged for different health benefit plans shall be reasonable and reflect objective differences in plan design, but shall not permit differences in premium rates due to the demographics of groups assumed to select particular health benefit plans; and

c. Small employer carriers shall apply allowable rating factors consistently with respect to all small employers. Adjustments in rates for age, gender, and geography shall not be applied individually. Any such adjustment shall be applied uniformly to the rate charged for all employee enrollees of the small employer.

~~(c) A small employer carrier shall not involuntarily transfer a small employer into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless the carrier offers to transfer all small employers in the class of business without regard to case characteristics, claims experience, health status, or duration of coverage since issue.~~

(d) In connection with the offering for sale of any health benefit plan to a small employer, each small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of:

~~(1) The extent to which premium rates for a specified small employer are established or adjusted in part based upon the actual or expected variation in claims costs or actual or expected variation in health condition of the eligible employees and dependents of the small employer.~~

(2) Provisions concerning the small employer carrier's right to change premium rates and the factors other than claims experience that affect changes in premium rates.

(3) Provisions relating to renewability of policies and contracts.

(4) Provisions affecting any preexisting conditions provision.

(e) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(f) Each small employer carrier shall file with the Commissioner annually on or before March 15 an actuarial certification certifying that it is in compliance with this Act and that its rating methods are actuarially sound. The small employer carrier shall retain a copy of the certification at its principal place of business.

(g) A small employer carrier shall make the information and documentation described in subsection (e) of this section available to the Commissioner upon request. Except in cases of violations of this Act, the information is proprietary and trade secret information and is not subject to disclosure by the Commissioner to persons outside of the Department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

(h) The provisions of subdivisions (a)(1), (3), and (5) and subsections (b) through (g) of this section apply to health benefit plans delivered, issued for delivery, renewed, or continued in this State or covering persons residing in this State on or after January 1, 1992. The provisions of subdivisions (a)(2) and (4) of this section apply to health benefit plans delivered, issued for delivery, renewed, or continued in this State or covering persons residing in this State on or after the date the plan becomes operational, as designated by the Commissioner. For purposes of this subsection, the date a health benefit plan is continued is the anniversary date of the issuance of the health benefit plan."

Sec. 3.8. G.S. 58-53-35 reads as rewritten:

"*§ 58-53-35. Termination of continuation.*

(a) Continuation of insurance under the group policy for any person shall terminate on the earliest of the following dates:

(1) The date ~~three months~~ one year after the date the employee's or member's insurance under the policy would otherwise have terminated because of termination of employment or members;

(2) The date ending the period for which the employee or member last makes his required contribution, if he discontinues his contributions;

(3) The date the employee or member becomes or is eligible to become covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured;

(4) The date on which the group policy is terminated or, in the case of a multiple employer plan, the date his employer terminates participating under the group master policy. When this occurs the employee or member shall have the privilege described in G.S. 58-53-45 if the date of termination precedes that on which his actual continuation of insurance under that policy would have been terminated. The insurer that insured the group prior to the date of termination shall make a converted policy available to the employee or member.

(b) Notwithstanding subdivision (a)(4) of this section, if the employer replaces the group policy with another group policy, the employee is entitled to continue under the successor group policy for any unexpired period of continuation to which the employee is entitled."

Sec. 3.9. G.S. 120-123 is amended by adding a new subdivision to read:

"(61) The State Health Plan Purchasing Alliance Board, as established by G.S. 143-625."

Sec. 3.10. The State Health Plan Purchasing Alliance Board shall report not later than January 1, 1995, to the Joint Legislative Commission on Governmental Operations on the following:

(1) The progress achieved in expanding the availability of affordable insurance to employees of small employers;

(2) Employee choice;

(3) The possible need for financial incentives to encourage increased participation;

(4) The demographic factors used to determine the adjusted community rating method;

(5) The possible need to have exclusive purchasing of health insurance through the Alliance for all small employers who choose to purchase health insurance;
(6) Options for including (i) employers with more than 50 employees, and (ii) populations from State and federally financed systems of health coverage;
(7) The need for federal waivers;
(8) Developments in health care reform at the federal level as well as in other states, including, but not limited to, Florida and other states in the southeast region of the United States; and
(9) The need to develop, to the extent feasible and consistent with national standards, standard information to be collected from Accountable Health Carriers on the types of treatments and outcomes with respect to the clinical health, functional status, and well-being of enrollees.

Sec. 3.11. Within 30 days of ratification of this act, the Governor, the General Assembly upon the recommendation of the Speaker of the House of Representatives, and the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall make their appointments to the State Health Care Purchasing Alliance Board. Those appointments restricted by G.S. 143-625(b) shall be drawn from among persons who own, manage, or are employed by a small employer as defined in G.S. 143-622 who would qualify as a member small employer under this act. If initial appointments are not made by the General Assembly prior to August 1, 1993, those positions shall be filled by appointment pursuant to G.S. 120-122.

Sec. 3.12. Of the funds appropriated to the Reserve for Health Care Initiatives in Chapter 321 of the 1993 Session Laws, the sum of four million dollars ($4,000,000) for the 1993-94 fiscal year and the sum of five hundred thousand dollars ($500,000) for the 1994-95 fiscal year shall be used for the initial operation of the Health Care Purchasing Alliance Board and other activities related to the duties and responsibilities of the Alliances and the State Health Purchasing Alliance Board authorized by Section 3.1 of this act.

Sec. 3.13. Section 3.2 of this act becomes effective January 1, 1994. Sections 3.3 through 3.7 of this act become effective January 1, 1995. Alliances shall become operational on or after January 1, 1995. The remainder of this Part is effective upon ratification.

PART IV.--UNIFORM CLAIM FORMS

Sec. 4.1. G.S. 58-50-10 is repealed.

Sec. 4.2. Article 3 of Chapter 58 of the General Statutes is amended by adding the following new sections to read:

"*§ 58-3-171. Uniform claim forms.*

(a) All claims submitted by health care providers to health benefit plans shall be submitted on a uniform form or format that shall be developed by the Department and approved by the Commissioner. Additional information beyond that contained on the uniform form or format may be collected subject to rules adopted by the Commissioner. This section applies to the submission of claims in writing and by electronic means.

(b) After consultation with the North Carolina Industrial Commission, the Commissioner may include workers' compensation insurance policies as 'health benefit plans' for the purpose of administering the provisions of this section.

(c) For purposes of this section, 'health benefit plans' means accident and health insurance policies or certificates; nonprofit hospital or medical service corporation contracts; health maintenance organization (HMO) subscriber contracts and other plans provided by managed-care organizations; plans provided by a MEWA or plans provided by other benefit arrangements, to the extent permitted by ERISA; the Teachers' and State Employees' Comprehensive Major Medical Plan; and medical payment coverages under homeowners and automobile insurance policies.

"*§ 58-3-172. Notice of claim denied.*

(a) For all claims denied for heath care provider services under health benefit plans, written notification of the denied claim shall be given to the insured and to the health care provider submitting the claim if the health care provider would otherwise be eligible for payment.

(b) For purposes of this section, 'health benefit plans' means accident and health insurance policies or certificates; nonprofit hospital or medical service corporation contracts; health, hospital, or medical service corporation plan contracts; health maintenance organization (HMO) subscriber contracts and other plans provided by managed-care organizations; plans provided by a MEWA or plans provided by other benefit arrangements, to the extent permitted by ERISA; and the Teachers' and State Employees' Comprehensive Major Medical Plan."

Sec. 4.3. Chapter 90 of the General Statutes is amended by adding a new Article 28 to read:

"ARTICLE 28.

"Medical Records.

"*§ 90-410. Definitions.*

As used in this Article:

(1) 'Health care provider' means any person who is licensed or certified to practice a health profession or occupation under this Chapter or Chapters 90B or 90C of the General Statutes, a health care facility licensed under Chapters 131E or 122C of the General Statutes, and a representative or agent of a health care provider.

(2) 'Medical records' means personal information that relates to an individual's physical or mental condition, medical history, or medical treatment, excluding X rays and fetal monitor records.

"*§ 90-411. Record copy fee.*

A health care provider may charge a reasonable fee to cover the costs incurred in searching, handling, copying, and mailing medical records to the patient or the patient's designated representative. The maximum fee shall be fifty cents (50¢) per page, provided that the health care provider may impose a minimum fee of up to ten dollars ($10.00), inclusive of copying costs. If requested by the patient or the patient's designated representative, nothing herein shall limit a reasonable professional fee charged by a physician for the review and preparation of a narrative summary of the patient's medical record. This section shall only apply with respect to liability claims for personal injury."

Sec. 4.4. This Part becomes effective January 1, 1994.

PART V.--HOSPITAL COOPERATION

Sec. 5.1. Part V of this act shall be known as the Hospital Cooperation Act of 1993.

Sec. 5.2. Chapter 131E of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 9A.

"Certificate of Public Advantage.

"*§ 131E-192.1. Findings.*

The General Assembly of North Carolina makes the following findings:

(1) That technological and scientific developments in hospital care have enhanced the prospects for further improvement in the quality of care provided by North Carolina hospitals to North Carolina citizens.

(2) That the cost of improved technology and improved scientific methods for the provision of hospital care contributes substantially to the increasing cost of hospital care. Cost increases make it increasingly difficult for hospitals in rural areas of North Carolina to offer care.

(3) That changes in federal and State regulations governing hospital operation and reimbursement have constrained the ability of hospitals to acquire and develop new and improved machinery and methods for the provision of hospital-related care.

(4) That cooperative agreements among hospitals and between hospitals and others for the provision of health care services may foster improvements in the quality of health care for North Carolina citizens, moderate increases in cost, improve access to needed services in rural areas of North Carolina, and enhance the likelihood that smaller hospitals in North Carolina will remain open in beneficial service to their communities.

(5) That hospitals are often in the best position to identify and structure cooperative arrangements that enhance quality of care, improve access, and achieve cost-efficiency in the provision of care.

(6) That federal and State antitrust laws may prohibit or discourage cooperative arrangements that are beneficial to North Carolina citizens despite their potential for or actual reduction in competition and that such agreements should be permitted and encouraged.

(7) That competition as currently mandated by federal and State antitrust laws should be supplanted by a regulatory program to permit and encourage cooperative agreements between hospitals, or between hospitals and others, that are beneficial to North Carolina citizens when the benefits of cooperative agreements outweigh their disadvantages caused by their potential or actual adverse effects on competition.

(8) That regulatory as well as judicial oversight of cooperative agreements should be provided to ensure that the benefits of cooperative agreements permitted and encouraged in North Carolina outweigh any disadvantages attributable to any reduction in competition likely to result from the agreements.

"§ *131E-192.2. Definitions.*

The following definitions apply in this Article:

(1) 'Attorney General' means the Attorney General of the State of North Carolina or any attorney on his or her staff to whom the Attorney General delegates authority and responsibility to act pursuant to this Article.

(2) 'Cooperative agreement' means an agreement among two or more hospitals, or between a hospital and any other person, for the sharing, allocation, or referral of patients, personnel,

instructional programs, support services and facilities, or medical, diagnostic, or laboratory facilities or equipment, or procedures or other services traditionally offered by hospitals. Cooperative agreement shall not include any agreement by which ownership over substantially all of the stock, assets, or activities of one or more previously licensed and operating hospitals is transferred nor any agreement that would permit self-referrals of patients by a health care provider that is otherwise prohibited by law.

(3) 'Department' means the Department of Human Resources.

(4) 'Hospital' means any hospital required to be licensed under Chapters 131E or 122C of the General Statutes.

(5) 'Person' means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency.

(6) 'Federal or State antitrust laws' means any and all federal or State laws prohibiting monopolies or agreements in restraint of trade, including the federal Sherman Act, Clayton Act, Federal Trade Commission Act, and North Carolina laws codified in Chapter 75 of the General Statutes that prohibit restraints on competition.

"*§ 131E-192.3. Certificate of public advantage; application.*

(a) A hospital and any person who is a party to a cooperative agreement with a hospital may negotiate, enter into, and conduct business pursuant to a cooperative agreement without being subject to damages, liability, or scrutiny under any State antitrust law if a certificate of public advantage is issued for the cooperative agreement, or in the case of activities to negotiate or enter into a cooperative agreement, if an application for a certificate of public advantage is filed in good faith. It is the intention of the General Assembly that immunity from federal antitrust laws shall also be conferred by this statute and the State regulatory program that it establishes.

(b) Parties to a cooperative agreement may apply to the Department for a certificate of public advantage governing that cooperative agreement. The application must include an executed written copy of the cooperative agreement or letter of intent with respect to the agreement, a description of the nature and scope of the activities and cooperation in the agreement, any consideration passing to any party under the agreement, and any additional materials necessary to fully explain the agreement and its likely effects. A copy of the application and all additional related materials shall be submitted to the Attorney General at the same time the application is submitted to the Department.

"*§ 131E-192.4. Procedure for review; standards for review.*

(a) The Department shall review an application in accordance with the standards set forth in subsection (b) of this section and shall hold a public hearing with the opportunity for the submission of oral and written public comments in accordance with rules adopted by the Department. The Department shall determine whether the application should be granted or denied within 90 days of the date the application is filed. The Department may extend the review period for a specified period of time upon notice to the parties.

(b) The Department shall determine that a certificate of public advantage should be issued for a cooperative agreement if it determines that an applicant has demonstrated by clear and convincing evidence that the benefits likely to result from the agreement outweigh the disadvantages likely to result from a reduction in competition from the agreement.

In evaluating the potential benefits of a cooperative agreement, the Department shall consider whether one or more of the following benefits may result from the cooperative agreement:

(1) Enhancement of the quality of hospital and hospital-related care provided to North Carolina citizens.

(2) Preservation of hospital facilities in geographical proximity to the communities traditionally served by those facilities.

(3) Lower costs of, or gains in, the efficiency of delivering hospital services.

(4) Improvements in the utilization of hospital resources and equipment.

(5) Avoidance of duplication of hospital resources.

(6) The extent to which medically underserved populations are expected to utilize the proposed services.

In evaluating the potential disadvantages of a cooperative agreement, the Department shall consider whether one or more of the following disadvantages may result from the cooperative agreements:

(1) The extent to which the agreement may increase the costs or prices of health care at a hospital which is party to the cooperative agreement.

(2) The extent to which the agreement may have an adverse impact on patients in the quality, availability, and price of health care services.

(3) The extent to which the agreement may reduce competition among the parties to the agreement and the likely effects thereof.

(4) The extent to which the agreement may have an adverse impact on the ability of health maintenance organizations, preferred provider organizations, managed health care service agents, or other health care payors to negotiate

optimal payment and service arrangements with hospitals, physicians, allied health care professionals, or other health care providers.

(5) The extent to which the agreement may result in a reduction in competition among physicians, allied health professionals, other health care providers, or other persons furnishing goods or services to, or in competition with, hospitals.

(6) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition.

In making its determination, the Department may consider other benefits or disadvantages that may be identified.

"*§ 131E-192.5. Issuance of a certificate.*

If the Department determines that the likely benefits of a cooperative agreement outweigh the likely disadvantages attributable to reduction of competition as a result of the agreement by clear and convincing evidence, and the Attorney General has not stated any objection to issuance of a certificate during the review period, the Department shall issue a certificate of public advantage for the cooperative agreement at the conclusion of the review period. The certificate shall include any conditions of operation under the agreement that the Department, in consultation with the Attorney General, determines to be appropriate in order to ensure that the cooperative agreement and the activities engaged under it are consistent with this Article and its purpose to limit health care costs. The Department shall include conditions to control prices of health care services provided under the cooperative agreement. Consideration shall be given to assure that access to health care is provided to all areas of the State. The Department shall publish its decisions on applications for certificates of public advantage in the North Carolina Register.

"*§ 131E-192.6. Objection by Attorney General.*

If the Attorney General is not persuaded that an applicant has demonstrated by clear and convincing evidence that the benefits likely to result from the agreement outweigh the likely disadvantages of any reduction of competition to result from the agreement as set forth in G.S. 131E-192.4, the Attorney General may, within the review period, state an objection to the issuance of a certificate of public advantage and may extend the review period for a specified period of time. Notice of the objection and any extension of the review period shall be provided in writing to the applicant, together with a general explanation of the concerns of the Attorney General. The parties may attempt to reach an agreement with the Attorney General on modifications to the agreement or to conditions in the certificate so

that the Attorney General no longer objects to issuance of a certificate. If the Attorney General withdraws the objection and the Department maintains its determination that a certificate should be issued, the Department shall issue a certificate of public advantage with any appropriate conditions as soon as practicable following the withdrawal of the objection. If the Attorney General does not withdraw the objection, a certificate shall not be issued.

"§ *131E-192.7. Record keeping.*

The Department shall maintain on file all cooperative agreements for which certificates of public advantage are in effect and a copy of the certificate, including any conditions imposed in it. Any party to a cooperative agreement who terminates an agreement shall file a notice of termination with the Department within 30 days after termination. These files shall be public records as set forth in Chapter 132 of the General Statutes.

"§ *131E-192.8. Review after issuance of certificate.*

If at any time following the issuance of a certificate of public advantage, the Department or the Attorney General has questions concerning whether the parties to the cooperative agreement have complied with any condition of the certificate or whether the benefits or likely benefits resulting from a cooperative agreement may no longer outweigh the disadvantages or likely disadvantages attributable to a reduction in competition resulting from the agreement, the Department or the Attorney General shall advise the parties to the agreement, and either the Department or the Attorney General shall request any information necessary to complete a review of the matter.

"§ *131E-192.9. Periodic reports.*

(a) During the time that a certificate is in effect, a report of activities pursuant to the cooperative agreement must be filed every two years with the Department on or before the anniversary date on which the certificate was issued. A copy of the periodic report shall be submitted to the Attorney General at the same time that it is filed with the Department. A report shall include all of the following:

(1) A description of the activities conducted pursuant to the agreement.

(2) Price and cost information.

(3) The nature and scope of the activities pursuant to the agreement anticipated for the next two years, the likely effect of those activities.

(4) A signed certificate by each party to the agreement that the benefits or likely benefits of the cooperative agreement as conditioned continue to outweigh the disadvantages or likely disadvantages of any reduction in competition from the agreement as conditioned.

(5) Any additional information requested by the Department or the Attorney General.

The Department shall give public notice in the North Carolina Register that a report has been received. After notice is given, the public shall have 30 days to file written comments on the report and on the benefits and disadvantages of continuing the certificate of public advantage. Periodic reports, public comments, and information submitted in response to a request shall be public records as set forth in Chapter 132 of the General Statutes.

(b) Failure to file a periodic report required by this section after notice of default or failure to provide information requested pursuant to a review under G.S. 131E-192.8 is grounds for the revocation of the certificate by the Attorney General or the Department.

(c) The Department shall review each periodic report, public comments, and information submitted in response to a request under G.S. 131E-192.8 to determine whether the advantages or likely advantages of the cooperative agreement continue to outweigh the disadvantages or likely disadvantages of any reduction in competition from the agreement, and to determine what, if any, changes in the conditions of the certificate should be made. In the review the Department shall consider the benefits and disadvantages set forth in G.S. 131E-192.4. Within 60 days of the filing of a periodic report, the Department shall determine whether the certificate should remain in effect and whether any changes to the conditions in the certificate should be made. The Department may extend the review period an additional 30 days. If either the Department or the Attorney General determines that the parties to a cooperative agreement have not complied with any condition of the certificate, the Department or the Attorney General shall revoke the certificate and the parties shall be notified. If the certificate is revoked, the parties shall be entitled to no benefits under this Article, beginning on the date of revocation. If the Department determines that the certificate should remain in effect and the Attorney General has not stated any objection to the certificate remaining in effect during the review period, the certificate shall remain in effect subject to any changes in the conditions of the certificate imposed by the Department. The parties shall be notified in writing of the Department's decision and of any changes in the conditions of the certificate. The Department shall publish its decision and any changes in the conditions in the North Carolina Register.

If the Department determines that the benefits or likely benefits of the agreement and the unavoidable costs of terminating the agreement do not continue to outweigh the disadvantages or likely disadvantages of any reduction in competition from the agreement, or if the Attorney General objects to the certificate remaining in effect based upon a

review of the benefits and disadvantages set forth in G.S. 131E-192.4, the Department shall notify the parties to the agreement in writing of its determination or the objections of the Attorney General and shall provide a summary of any concerns of the Department or Attorney General to the parties.

"*§ 131E-192.10. Right to judicial action.*

(a) Any applicant or other person aggrieved by a decision to issue or not issue a certificate of public advantage is entitled to judicial review of the action or inaction in superior court. Suit for judicial review under this subsection shall be filed within 30 days of public notice of the decision to issue or deny issuance of the certificate. To prevail in any action for judicial review brought under this subsection, the plaintiff or petitioner must establish that the determination by the Department or the Attorney General was arbitrary or capricious.

(b) Any party or other person aggrieved by a decision to allow a certificate to remain in effect or to make changes in the conditions of a certificate is entitled to judicial review of the decision in superior court. Suit for judicial review under this subsection shall be filed within 30 days of public notice of the decision to allow the certificate to remain in effect or to make changes in the conditions of the certificate. To prevail in any action for judicial review brought under this subsection, the plaintiff or petitioner must establish that the determination by the Department or the Attorney General was arbitrary or capricious.

(c) If the Department or the Attorney General determines that the certificate should not remain in effect, the Attorney General may bring suit in the Superior Court of Wake County on behalf of the Department, or on its own behalf, to seek an order to authorize the cancellation of the certificate. To prevail in the action, the Attorney General must establish that the benefits resulting from the agreement are outweighed by the disadvantages attributable to a reduction in competition resulting from the agreement.

(d) In any action instituted under this section, the work product of the Department, the Attorney General or his staff, is not a public record under Chapter 132, and shall not be discoverable or admissable, nor shall the Attorney General or any member of his staff be compelled to be a witness, whether in discovery or at any hearing or trial.

"*§ 131E-192.11. Fees for applications and periodic reports.*

The Department and the Attorney General shall establish a schedule of fees for filing an application for a certificate of public advantage and for filing a periodic report based on the total cost of the project for which the application or periodic report is made. The fee for filing an application may not exceed fifteen thousand dollars ($15,000). The

fee for filing a periodic report may not exceed two thousand five hundred dollars ($2,500). The fee schedule established should generate sufficient revenue to offset the costs of the program. An application filing fee must be paid to the Department at the time an application for a certificate of public advantage is submitted to it pursuant to G.S. 131E-192.3. A periodic report filing fee must be paid to the Department at the time a periodic report is submitted to it pursuant to G.S. 131E-192.9.

"*§ 131E-192.12. Department and Attorney General authority.*

The Department and Attorney General shall have the necessary powers to adopt rules to conduct a review of applications for certificates of public advantage and of periodic reports filed in connection therewith and to bring actions in the Superior Court of Wake County as required under G.S. 131E-192.10. This Article shall not limit the authority of the Attorney General under federal or State antitrust laws.

"*§ 131E-192.13. Effects of certificate of public advantage; other laws.*

(a) Activities conducted pursuant to a cooperative agreement for which a certificate of public advantage has been issued are immunized from challenge or scrutiny under State antitrust laws. In addition, conduct in negotiating and entering into a cooperative agreement for which an application for a certificate of public advantage is filed in good faith shall be immune from challenge or scrutiny under State antitrust laws, regardless of whether a certificate is issued. It is the intention of the General Assembly that this Article shall also immunize covered activities from challenge or scrutiny under federal antitrust law.

(b) Nothing in this Article shall exempt hospitals or other health care providers from compliance with State or federal laws governing certificate of need, licensure, or other regulatory requirements.

(c) Any dispute among the parties to a cooperative agreement concerning its meaning or terms is governed by normal principles of contract law."

Sec. 5.3. G.S. 131E-7(b) reads as rewritten:

"(b) ~~A municipality may contract with or otherwise arrange with other municipalities of this or other states, federal or public agencies or with any person, private organization or nonprofit association for the provision of hospital, clinical, or similar services. The municipality may pay for these services from appropriations or other moneys available for these purposes.~~ A municipality or a public hospital may contract with or enter into any arrangement with other public hospitals or municipalities of this or other states, the State of North Carolina, federal, or public agencies, or with any person, private organization, or nonprofit corporation or association for the

provision of health care. The municipality or public hospital may pay for or contribute its share of the cost of any such contract or arrangement from revenues available for these purposes, including revenues rising from the provision of health care."

Sec. 5.4. The Department of Human Resources and the Attorney General shall prepare and submit a report to the 1999 General Assembly summarizing and analyzing the effects of this Part. The report shall include the results of efforts to assure access to health care and to control increases in health care costs and any recommendations the Department may have for amendments to this Part.

Sec. 5.5. Sections 5.1, 5.2, and 5.4 are effective upon ratification. Section 5.3 becomes effective October 1, 1993.

PART VI.--HOSPITAL AUTHORITY TERRITORY

Sec. 6.1. G.S. 131E-20(a) reads as rewritten:

"(a) The territorial boundaries of a hospital authority shall include the city or county creating the authority and the area within 10 miles from the territorial boundaries of that city or county. However, a hospital authority may engage in health care activities in a county outside its territorial boundaries pursuant to:

(1) An agreement with a hospital facility if only one hospital currently exists in that county;

(2) An agreement with any hospital if more than one hospital currently exists in that county; or

(3) An agreement with any health care agency if no hospital currently exists in that county.

In no event shall the territorial boundaries of a hospital authority include, in whole or in part, the area of any previously existing hospital authority. All priorities shall be determined on the basis of the time of issuance of the certificates of incorporation by the Secretary of State."

PART VII.--HEALTH DELIVERY IMPROVEMENTS

Sec. 7.1. G.S. 58-50-50 reads as rewritten:

"*§ 58-50-50. Preferred provider; definition.*

The term 'preferred provider' as used in Articles 1 through 64 of this Chapter with respect to contracts, organizations, policies or otherwise means a person, who has contracted for, or a provider of health care services who has agreed to accept special reimbursement or other terms for health care services from any person; or an insurer subject to the provisions of Articles 1 through 64 of this Chapter or

other applicable law for health care services on a fee for service basis, or in exchange for providing health care services to beneficiaries of a plan administered pursuant to Articles 1 through 64 of this ~~Chapter.~~ Chapter, except that the term 'preferred provider' as used in Articles 1 through 64 of this Chapter does not apply to any prepaid health service or capitation arrangement implemented or administered by the Department of Human Resources or its representatives, pursuant to 42 U.S.C. § 1396n or Chapter 108A of the General Statutes, or to any provider of health care services participating in such a prepaid health service or capitation arrangement. Except where specifically prohibited either by G.S. 58-50-55 or by regulations promulgated by the Department of Insurance, not inconsistent with Articles 1 through 64 of this Chapter, the contractual terms and conditions for special reimbursements shall be those which the insurer, health care provider and the preferred provider find to be mutually agreeable."

Sec. 7.2. G.S. 58-67-10(b) reads as rewritten:

"(b) (1) It is specifically the intention of this section to permit such persons as were providing health services on a prepaid basis on July 1, 1977, or receiving federal funds under Section 254(c) of Title 42, U.S. Code, as a community health center, to continue to operate in the manner which they have heretofore operated.

(2) Notwithstanding anything contained in this Article to the contrary, any person can provide health services on a fee for service basis to individuals who are not enrollees of the organization, and to enrollees for services not covered by the contract, provided that the volume of services in this manner shall not be such as to affect the ability of the health maintenance organization to provide on an adequate and timely basis those services to its enrolled members which it has contracted to furnish under the enrollment contract.

(3) This Article shall not apply to any employee benefit plan to the extent that the Federal Employee Retirement Income Security Act of 1974 preempts State regulation thereof.

(3a) This Article does not apply to any prepaid health service or capitation arrangement implemented or administered by the Department of Human Resources or its representatives, pursuant to 42 U.S.C. § 1396n or Chapter 108A of the General Statutes, or to any provider of health care services participating in such a prepaid health services or capitation arrangement.

(4) Except as provided in paragraphs (1), (2), ~~and (3)~~ (3), and (3a) of this subsection, the persons to whom these

paragraphs are applicable shall be required to comply with all provisions contained in this Article."

Sec. 7.3. G.S. 108A-55(b) reads as rewritten:

"(b) Payments shall be made only to intermediate care facilities, hospitals and nursing homes licensed and approved under the laws of the State of North Carolina or under the laws of another state, or to pharmacies, physicians, dentists, optometrists or other providers of health-related services authorized by the Department. Payments may also be made to such fiscal intermediaries and to ~~such~~ the capitation or prepaid health service contractors as may be authorized by the Department. Arrangements under which payments are made to capitation or prepaid health services contracts are not subject to the provisions of Chapter 58 of the General Statutes or of Article 3 of Chapter 143 of the General Statutes."

Sec. 7.4. Chapter 143 of the General Statutes is amended by adding the following new section to read:

"*§ 143-48.1. Medicaid program exemption.*

(a) This Article shall not apply to any capitation arrangement or prepaid health service arrangement implemented or administered by the North Carolina Department of Human Resources or its delegates pursuant to the Medicaid waiver provisions of 42 § U.S.C. 1396n, or to the Medicaid program authorizations under Chapter 108A of the General Statutes.

(b) As used in this section, the following definitions apply:

(1) 'Capitation arrangement' means an agreement whereby the Department of Human Resources pays a periodic per enrollee fee to a contract entity that provides medical services to Medicaid recipients during their enrollment period.

(2) 'Prepaid health services' means services provided to Medicaid recipients that are paid on the basis of a prepaid capitation fee, pursuant to an agreement between the Department of Human Resources and a contract entity."

Sec. 7.5. G.S. 90-85.29 reads as rewritten:

"*§ 90-85.29. Prescription label.*

The prescription label of every drug product dispensed shall contain the brand name of any drug product dispensed, or in the absence of a brand name, the established name. The prescription drug label of every drug product dispensed shall:

(1) Contain the discard date when dispensed in a container other than the manufacturer's original container. The discard date shall be the earlier of one year from the date dispensed or the manufacturer's expiration date, whichever is earlier, and

(2) Not obscure the expiration date and storage statement when the product is dispensed in the manufacturer's original container.

As used in this section, 'expiration date' means the expiration date printed on the original manufacturer's container, and 'discard date' means the date after which the drug product dispensed in a container other than the original manufacturer's container shall not be used. Nothing in this section shall impose liability on the dispensing pharmacist or the prescriber for damages related to or caused by a drug product that loses its effectiveness prior to the expiration or disposal date displayed by the pharmacist or prescriber."

Sec. 7.6. Chapter 131E of the General Statutes is amended by adding a new Article to read:

"ARTICLE 13A.

"Disposal of Surplus Property to Aid Other Countries.

"*§ 131E-248. Disposition of surplus property by public and State hospitals.*

(a) As used in this section, 'public hospital' has the same meaning as in G.S. 159-39. A State hospital is any hospital operated by the State.

(b) A public hospital or a State hospital may donate medical equipment it determines is no longer needed by the hospital to any:

(1) Corporation which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986;

(2) The United States or any agency thereof;

(3) Government of a foreign country or any political subdivision of that country;

(4) The United Nations or an agency of it; or to

(5) Other eleemosynary institutions and groups

if the property so donated is to be used by a hospital or medical facility in another country."

Sec. 7.7. Chapter 131E of the General Statutes is amended by adding a new section to read:

"*§ 131E-79.1. Counseling patients regarding prescriptions.*

(a) Any hospital or other health care facility licensed pursuant to this Chapter or Chapter 122C of the General Statutes, health maintenance organization, local health department, community health center, medical office, or facility operated by a health care provider licensed under Chapter 90 of the General Statutes, providing patient counseling by a physician, a registered nurse, or any other appropriately trained health care professional shall be deemed in compliance with the rules adopted by the North Carolina Board of Pharmacy regarding patient counseling.

(b) As used in this section, 'patient counseling' means the effective communication of information to the patient or representative in order to improve therapeutic outcomes by maximizing proper use of prescription medications and devices."

Sec. 7.8. Section 136(e) of Chapter 900 of the 1991 Session Laws reads as rewritten:

"(e) To the maximum extent possible, Area Mental Health Authorities are encouraged to develop service implementation plans in accordance with the long-range plans of the Mental Health Study Commission and with the involvement of local affected organizations. These plans may be used as the basis for future budget requests submitted by the Division.

Criteria for development and content of these plans shall be developed by the Department of Human Resources and the members of Coalition 2001 and presented to the Mental Health Study Commission for consideration by November 1, 1992. The plans themselves shall be ready for review by the Department and the Mental Health Study Commission by ~~November 1, 1993,~~ November 1, 1993, February 1, 1994, and May 1, 1994."

Sec. 7.9. Sections 7.1, 7.2, 7.3, and 7.4 of this act apply to arrangements implemented or administered on or after July 1, 1993. Section 7.7 becomes effective July 1, 1994. Section 7.5 becomes effective January 1, 1994.

PART VIII.--SEVERABILITY AND EFFECTIVE DATE

Sec. 8.1. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

Sec. 8.2. The Part headings in this act are for reference only and do not enlarge, define, or restrict the scope of this act unless otherwise expressly indicated.

Sec. 8.3. Except as otherwise specified herein, the provisions of this act are effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 575 **CHAPTER 530**

AN ACT TO REQUIRE THE PAYMENT OF OUTSTANDING FINES AS A CONDITION OF LICENSE RENEWAL FOR DOMICILIARY CARE FACILITIES AND NURSING

FACILITIES AND TO MAKE CHANGES CONCERNING THE LICENSURE OF ELECTROLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-102(c) reads as rewritten:

"(c) A license to operate a nursing home shall be annually renewed upon the filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fees and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall be available from the Department and shall contain all necessary and reasonable information that the Department may by rule require."

Sec. 2. G.S. 131D-2(b) reads as rewritten:

"(b) Licensure; inspections. --

(1) The Department of Human Resources shall inspect and license, under rules adopted by the Social Services Commission, all domiciliary homes for persons who are aged or mentally or physically disabled except those exempt in subsection (d) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary of Human Resources for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fines and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Social Services Commission, for substantial failure to comply with the provisions of this section or rules promulgated pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license.

(2) Any individual or corporation that establishes, conducts, manages, or operates a facility subject to licensure under

this section without a license is guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

(3) In addition, the Department may summarily suspend a license pursuant to G.S. 150B-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation or any condition which presents an imminent danger to the health and safety of any resident of the home. Any facility wishing to contest summary suspension of a license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of summary suspension to the licensee.

(4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of communications between physician and patient, in the course of an inspection conducted under subsection (b):

a. Department representatives may review any writing or other record concerning the admission, discharge, medication, care, medical condition, or history of any person who is or has been a resident of the facility being inspected, and

b. Any person involved in giving care or treatment at or through the facility may disclose information to Department representatives;

unless the resident objects in writing to review of his records or disclosure of such information.

The facility, its employees and any other person interviewed in the course of an inspection shall be immune from liability for damages resulting from disclosure of any information to the Department.

The Department shall not disclose:

a. Any confidential or privileged information obtained under this subsection unless the resident or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure, or

b. The name of anyone who has furnished information concerning a facility without that person's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does

not occur. All confidential or privileged information obtained under this section and the names of persons providing such information shall be exempt from Chapter 132 of the General Statutes."

Sec. 3. G.S. 88A-4 reads as rewritten:

"*§ 88A-4. Unlawful practice.*

(a) Effective ~~November 1, 1992,~~ January 31, 1994, it shall be unlawful to engage in the practice of electrolysis in this State without a license.

(b) Any violation of this Chapter shall be a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), or imprisonment for not more than 60 days, or both."

Sec. 4. G.S. 88A-11 reads as rewritten:

"*§ 88A-11. Licensure without examination.*

The Board may issue a license to practice electrology, without examination, to an applicant:

(1) Who was engaged in the practice of electrolysis in this State or another state prior to ~~January 1, 1992,~~ July 1, 1993, and who submits an application for licensure to the Board on or before ~~October 31, 1992,~~ January 31, 1994.

(2) Who is certified or licensed in good standing to practice electrolysis in another ~~state or other jurisdiction if the other state or jurisdiction grants a similar exclusion to an applicant from North Carolina who applies to practice electrology in that state or jurisdiction.~~ state, provided that the other state's educational hours of instruction are equal to or greater than the hours required in this State."

Sec. 5. Sections 1 and 2 of this act become effective October 1, 1993, and apply to renewals on or after that date. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 600 **CHAPTER 531**

AN ACT TO AMEND THE LEGISLATIVE RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, AND THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM TO COMPLY WITH THE INTERNAL REVENUE CODE, AND TO PERMIT CERTAIN ROLLOVERS AMONG QUALIFIED PLANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-4.25 reads as rewritten:

"§ *120-4.25. Return of accumulated contributions.*

If a member ceases to be a member of the General Assembly except by death or retirement, he shall, upon submission of an application, be paid not earlier than 60 days following the date of termination of service, the sum of his contributions if he has less than five years of creditable service, or the sum of his accumulated contributions if he has five or more years of creditable service, provided he has not in the meantime returned to service. Upon payment of this sum his membership in the System ceases. If he becomes a member afterwards, no credit shall be allowed for any service previously rendered except as provided in G.S. 120-4.14 and the payment shall be in full and complete discharge of any rights in or to any benefits otherwise payable under this Article. Upon receipt of proof satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former member, there shall be paid to the person or persons he nominated by written designation duly acknowledged and filed with the Board of Trustees, if the person or persons are living at the time of the member's death, otherwise to the member's legal representatives, the amount of his accumulated contributions at the time of his death, unless the beneficiary elects to receive the alternate benefit under the provisions of G.S. 120-4.28. ~~There shall be deducted from any amount otherwise payable any amount due any agency or subdivision of the State by the member by reason of any outstanding overpayment of salary or by any other reason. Even if the member fails to demand the return of his accumulated contributions within 90 days from the day he ceases to be a member of the General Assembly, any amount due the agency or subdivision by reason of any outstanding overpayment of salary or any other reason shall be paid to the agency or subdivision by the Retirement System upon demand. After the agency or subdivision has notified the executive director of any amount due, The Retirement System has no liability for amounts deducted and transmitted to the agency or subdivision nor for any failure by the Retirement System for any reason to make the deductions.~~"

Sec. 2. G.S. 120-4.31 reads as rewritten:

"§ *120-4.31. Internal Revenue Code compliance.*

(a) Notwithstanding any other provisions of law to the contrary, compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit under this Article shall not exceed the higher of two hundred thousand dollars ($200,000) or the amount determined by the Commissioner of Internal Revenue as the limitation

for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

(b) Notwithstanding any other provisions of law to the contrary, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and (e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined contributions plan that is required to be taken into account for the purposes of the limitation contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this Article shall be reduced to the extent required by Section 415(e) prior to making any reduction under the defined contribution plan provided by the employer.

(c) On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of April 1 of the calendar year following the calendar year that the member attains 70 1/2 years of age or April 1 of the calendar year following the calendar year in which the member terminates employment.

(d) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. Provided, an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives(or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Provided, an eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in case of an

eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or an individual retirement annuity. Provided, a distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, or a court ordered equitable distribution of marital property, as provided under G.S. 50-20, whichever may be applicable, are distributees with regard to the interest of the spouse or former spouse. Provided further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee."

Sec. 3. G.S. 128-27(f) reads as rewritten:

"(f) Return of Accumulated Contributions. -- Should a member cease to be an employee except by death or retirement under the provisions of this Chapter, he shall upon submission of an application be paid, not earlier than 60 days from the date of termination of service, his contributions and, if he has attained at least five years of membership service or if termination of his membership service is involuntary as certified by the employer, the accumulated regular interest thereon, provided that he has not in the meantime returned to service. Upon payment of such sum his membership in the System shall cease and, if he thereafter again becomes a member, no credit shall be allowed for any service previously rendered except as provided in G.S. 128-26; and such payment shall be in full and complete discharge of any rights in or to any benefits otherwise payable hereunder. Upon receipt of proof satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former member there shall be paid to such person or persons as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the member's death, otherwise to the member's legal representatives, the amount of his accumulated contributions at the time of his death, unless the beneficiary elects to receive the alternate benefit under the provisions of (m) below. ~~Notwithstanding any other provision of Chapter 128, there shall be deducted from any amount otherwise payable hereunder any amount due any participating employer by the member by reason of any outstanding overpayment of salary or by reason of the embezzlement of fees collected by the member for any participating employer; provided that, notwithstanding any other provisions of this Chapter, even if the member fails to demand the return of his accumulated contributions within 90 days from the day he ceases to be an employee, any amount due such participating employer by reason of any outstanding overpayment of salary or~~

~~embezzlement of fees shall be paid to such participating employer upon demand; provided, further, that such participating employer shall have notified the executive secretary of any amount so due and that the Retirement System shall have no liability for amounts so deducted and transmitted to such participating employer nor for any failure by the Retirement System for any reason to make such deductions.~~ An extension service employee who made contributions to the Local Governmental Employees' Retirement System and the Teachers' and State Employees' Retirement System as a result of dual employment may not be paid his accumulated contributions unless he is eligible to be paid his accumulated contributions in both systems for the same period of service.

Pursuant to the provisions of G.S. 135-56.2, a member who is also a member of the Consolidated Judicial Retirement System may irrevocably elect to transfer any accumulated contributions to the Consolidated Judicial Retirement System or to the Supplemental Retirement Income Plan and forfeit any rights in or to any benefits otherwise payable hereunder."

Sec. 4. G.S. 128-38.2 reads as rewritten:

"*§ 128-38.2. Internal Revenue Code compliance.*

(a) Notwithstanding any other provisions of law to the contrary, compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit under this Article shall not exceed the higher of two hundred thousand dollars ($200,000) or the amount determined by the Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

(b) Notwithstanding any other provisions of law to the contrary, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and (e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined contributions plan that is required to be taken into account for the purposes of the limitation contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this Article shall be reduced to the extent required by Section 415(e) prior to making any reduction under the defined contribution plan provided by the employer.

(c) On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of April 1 of the calendar year following the calendar year that the member attains 70 1/2 years of age or April 1 of the calendar year

following the calendar year in which the member terminates employment.

(d) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. Provided, an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives(or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Provided, an eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or an individual retirement annuity. Provided, a distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, or a court ordered equitable distribution of marital property, as provided under G.S. 50-20, whichever may be applicable, are distributees with regard to the interest of the spouse or former spouse. Provided further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee."

Sec. 5. G.S. 135-5(f) reads as rewritten:

"(f) Return of Accumulated Contributions. -- Should a member cease to be a teacher or State employee except by death or retirement under the provisions of this Chapter, he shall upon submission of an application be paid, not earlier than 60 days from the date of termination of service, his contributions, and if he has attained at least

five years of membership service or if termination of his membership service is involuntary as certified by the employer, the accumulated regular interest thereon, provided that he has not in the meantime returned to service. Upon payment of such sum his membership in the System shall cease and, if he thereafter again becomes a member, no credit shall be allowed for any service previously rendered except as provided in G.S. 135-4, and such payment shall be in full and complete discharge of any rights in or to any benefits otherwise payable hereunder. Upon receipt of proof satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former member there shall be paid to such person or persons as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the member's death, otherwise to the member's legal representatives, the amount of his accumulated contributions at the time of his death, unless the beneficiary elects to receive the alternate benefit under the provisions of (m) below. ~~Notwithstanding any other provision of Chapter 135, there shall be deducted from any amount otherwise payable hereunder any amount due any agency or subdivision of the State by the member by reason of any outstanding overpayment of salary or by reason of the embezzlement of fees collected by the member for any agency or subdivision of the State; Provided that, notwithstanding any other provisions of this Chapter, even if the member fails to demand the return of his accumulated contributions within 90 days from the day he ceases to be a teacher or State employee, any amount due such agency or subdivision by reason of any outstanding overpayment of salary or embezzlement of fees shall be paid to such agency or subdivision by the Retirement System upon demand; Provided, further, that such agency or subdivision shall have notified the executive director of any amount so due and that the Retirement System shall have no liability for amounts so deducted and transmitted to such agency or subdivision nor for any failure by the Retirement System for any reason to make such deductions.~~ An extension service employee who made contributions to the Local Governmental Employees' Retirement System and the Teachers' and State Employees' Retirement System as a result of dual employment may not be paid his accumulated contributions unless he is eligible to be paid his accumulated contributions in both systems for the same period of service.

Pursuant to the provisions of G.S. 135-56.2, a member who is also a member of the Consolidated Judicial Retirement System may irrevocably elect to transfer any accumulated contributions to the Consolidated Judicial Retirement System or to the Supplemental

Retirement Income Plan and forfeit any rights in or to any benefits otherwise payable hereunder.

A member who is a participant or beneficiary of the Disability Income Plan of North Carolina as is provided in Article 6 of this Chapter shall not be paid a return of accumulated contributions, notwithstanding the member's status as an employee or teacher. Notwithstanding any other provision of law to the contrary, a member who is a beneficiary of the Disability Income Plan of North Carolina as provided in Article 6 of this Chapter and who is receiving disability benefits under the transition provisions as provided in G.S. 135-112, shall not be prohibited from receiving a return of accumulated contributions as provided in this subsection."

Sec. 6. G.S. 135-18.7 reads as rewritten:

"§ *135-18.7. Internal Revenue Code compliance.*

(a) Notwithstanding any other provisions of law to the contrary, compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit under this Article shall not exceed the higher of two hundred thousand dollars ($200,000) or the amount determined by the Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

(b) Notwithstanding any other provisions of law to the contrary, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and (e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined contributions plan that is required to be taken into account for the purposes of the limitation contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this Article shall be reduced to the extent required by Section 415(e) prior to making any reduction under the defined contribution plan provided by the employer.

(c) On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of April 1 of the calendar year following the calendar year that the member attains 70 1/2 years of age or April 1 of the calendar year following the calendar year in which the member terminates employment.

(d) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner

prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. Provided, an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives(or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Provided, an eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or an individual retirement annuity. Provided, a distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, or a court ordered equitable distribution of marital property, as provided under G.S. 50-20, whichever may be applicable, are distributees with regard to the interest of the spouse or former spouse. Provided further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee."

Sec. 7. G.S. 135-62 reads as rewritten:

"§ *135-62. Return of accumulated contributions.*

(a) Should a member cease membership service otherwise than by death or retirement under the provisions of this Article, he shall, upon submission of an application, be paid, not earlier than 60 days from the date of termination of service, his contributions and, if he has attained at least five years of membership service or if termination of his membership service is involuntary as certified by the employer, the accumulated regular interest thereon, provided that he has not in the meantime returned to service as a judge. Upon payment of such accumulated contributions his membership in the Retirement System shall cease and, if he thereafter again becomes a member, no credit

shall be allowed for any service previously rendered, except as otherwise provided in G.S. 135-56(b). Any such payment of a member's accumulated contributions shall be in full and complete discharge of any rights in or to any benefits otherwise payable under this Article.

~~(b) Any other provision of this Article to the contrary notwithstanding, there shall be deducted from any amount otherwise payable hereunder any amount due any agency or subdivision of the State by the member by reason of any outstanding overpayment of salary or by reason of the embezzlement of fees collected by the member for any agency or subdivision of the State; provided that, notwithstanding any other provisions of this Article, even if the member fails to demand the return of his accumulated contributions within 90 days from the day he ceases membership service, any amount due such agency or subdivision by reason of any outstanding overpayment of salary or embezzlement of fees shall be paid to such agency or subdivision by the Retirement System upon demand; and provided further, that such agency or subdivision shall have notified the director of any amount so due and that the Retirement System shall have no liability for amounts so deducted and transmitted to such agency or subdivision nor for any failure by the Retirement System for any reason to make such deductions."~~

Sec. 8. G.S. 135-74 reads as rewritten:

"*§ 135-74. Internal Revenue Code compliance.*

(a) Notwithstanding any other provisions of law to the contrary, compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit under this Article shall not exceed the higher of two hundred thousand dollars ($200,000) or the amount determined by the Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

(b) Notwithstanding any other provisions of law to the contrary, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and (e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined contributions plan that is required to be taken into account for the purposes of the limitation contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this Article shall be reduced to the extent required by Section 415(e) prior to making any reduction under the defined contribution plan provided by the employer.

(c) On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of April 1 of the calendar year following the calendar year that the member attains 70 1/2 years of age or April 1 of the calendar year following the calendar year in which the member terminates employment.

(d) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. Provided, an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives(or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Provided, an eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or an individual retirement annuity. Provided, a distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, or a court ordered equitable distribution of marital property, as provided under G.S. 50-20, whichever may be applicable, are distributees with regard to the interest of the spouse or former spouse. Provided further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee."

Sec. 9. G.S. 135-94(a) reads as rewritten:

"(a) The Department of State Treasurer and the Board of Trustees shall establish a schedule of supplemental retirement income benefits for all members of the Supplemental Retirement Income Plan, subject to the following limitations:

(1) The balance in each member's account shall be fully vested at all times and shall not be subject to forfeiture for any reason.

(2) All amounts maintained in a member's account shall be invested according to the member's election, as approved by the Department of State Treasurer and Board of Trustees, including but not limited to, a time deposit account, a fixed investment account, or a variable investment account. Transfers of accumulated funds shall be permitted among the various approved forms of investment.

(3) The Department of State Treasurer and Board of Trustees shall provide members with alternative payment options, including survivors' options, for the distribution of benefits from the Plan upon retirement, disability, termination, hardship, and death.

(4) With the consent of the Department of State Treasurer and the Board of Trustees, amounts may be transferred from other qualified plans to the Supplemental Retirement Income Plan, provided that the trust from which such funds are transferred permits the transfer to be made and, the transfer will not jeopardize the tax status of the Supplemental Retirement Income ~~Plan~~ Plan. ~~or create adverse tax consequences for the State.~~

(5) At the discretion of the Department of State Treasurer and Board of Trustees, a loan program may be implemented for members which complies with applicable State and federal laws and regulations."

Sec. 10. Sections 1, 3, 5, and 7 of this act are effective upon ratification. The remainder of this act becomes effective January 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 832 **CHAPTER 532**

AN ACT TO PROVIDE A TIMETABLE WITHIN WHICH THE DEPARTMENT OF REVENUE AND THE TAX REVIEW BOARD MUST HOLD ADMINISTRATIVE HEARINGS AND RENDER DECISIONS AND TO PROVIDE FOR STATE TAXPAYERS' RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-237 reads as rewritten:

"§ *105-237. ~~Discretion of Secretary over penalties.~~ Waiver of penalties; installment payments.*

(a) Waiver. -- The Secretary ~~of Revenue shall have power,~~ may, upon making a record of ~~his~~ the reasons therefor, ~~to~~ reduce or waive any penalties provided for in this Subchapter, except the penalty provided in G.S. 105-236 relating to unpaid checks.

(b) Installment Payments. -- After a proposed assessment of a tax becomes final, the Secretary may enter into an agreement with the taxpayer for payment of the tax in installments if the Secretary determines that the agreement will facilitate collection of the tax. The agreement may include a waiver of penalties but may not include a waiver of liability for tax or interest due. The Secretary may modify or terminate the agreement if one or more of the following findings is made:

(1) Information provided by the taxpayer in support of the agreement was inaccurate or incomplete.

(2) Collection of tax to which the agreement applies is in jeopardy.

(3) The taxpayer's financial condition has changed.

(4) The taxpayer has failed to pay an installment when due or to pay another tax when due.

(5) The taxpayer has failed to provide information requested by the Secretary.

The Secretary must give a taxpayer who has entered into an installment agreement at least 30 days' written notice before modifying or terminating the agreement on the grounds that the taxpayer's financial condition has changed unless the taxpayer failed to disclose or concealed assets or income when the agreement was made or the taxpayer has acquired assets since the agreement was made that can satisfy all or part of the tax liability. A notice must specify the basis for the Secretary's finding of a change in the taxpayer's financial condition."

Sec. 2. G.S. 105-241.1 reads as rewritten:

"§ *105-241.1. Additional taxes; assessment procedure.*

(a) Proposed Assessment. -- If the Secretary discovers that any tax is due from a taxpayer, the Secretary must notify the taxpayer in writing of the kind and amount of tax due and of the Secretary's intent to assess the taxpayer for the tax. The notice must describe the basis for the proposed assessment and identify the amounts of any tax, interest, additions to tax, and penalties included in the proposed assessment. The notice must also advise the taxpayer that the

proposed assessment will become final unless the taxpayer requests a hearing within the time set in subsection (c) of this section.

The Secretary must base a proposed assessment on the best information available. A proposed assessment of the Secretary is presumed to be correct. ~~If the Secretary of Revenue discovers from the examination of any return or otherwise that any tax or additional tax is due from any taxpayer, he shall give notice to the taxpayer in writing of the kind and amount of tax which is due and of his intent to assess the same, which notice shall contain advice to the effect that unless application for a hearing is made within the time specified in subsection (c), the proposed assessment will become conclusive and final.~~

~~If the Secretary is unable to obtain from the taxpayer adequate and reliable information upon which to base such assessment, the assessment may be made upon the basis of the best information available and, subject to the provisions hereinafter made, such assessment shall be deemed correct.~~

(b) The notice required to be given in subsection (a) may be delivered to the taxpayer by an agent of the Secretary or may be sent by mail to the last known address of the taxpayer and such notice will be deemed to have been received in due course of the mail unless the taxpayer shall make an affidavit to the contrary within 90 days after such notice is mailed, in which event the taxpayer shall be heard by the Secretary in all respects as if he had made timely application.

(c) Hearing. -- A taxpayer who objects to a proposed assessment of tax is entitled to a hearing before the Secretary as provided in this subsection. To obtain a hearing, the taxpayer must file a written request either for a hearing or for a written statement of the information and evidence upon which the proposed assessment is based. If the notice of a proposed assessment was mailed, the taxpayer's request must be filed within 30 days after the date the notice was mailed; if the notice of a proposed assessment was delivered in person, the taxpayer's request must be filed within 30 days after the date the notice was delivered.

When a taxpayer files a timely request for a written statement of the information and evidence upon which a proposed assessment is based, the Secretary must give the written statement to the taxpayer within 45 days after the taxpayer filed the request. A taxpayer who files a timely request for a written statement concerning a proposed assessment and who desires to have a hearing on the proposed assessment must file a written request for a hearing within 30 days after the written statement was mailed.

When a taxpayer files a timely request for a hearing, the Secretary must set the time and place at which the hearing will be conducted

and must notify the taxpayer of the designated time and place within 60 days after the taxpayer filed the request for a hearing and at least 10 days before the date set for the hearing. The date set for the hearing must be within 90 days after the timely request for a hearing was filed or at a later date mutually agreed upon by the taxpayer and the Secretary. The date set for the hearing may be postponed once at the request of the taxpayer and once at the request of the Secretary for a period of up to 90 days or for a longer period mutually agreed upon by the taxpayer and the Secretary.

The taxpayer may present any objections to the proposed assessment at the hearing. The rules of evidence do not apply at the hearing.

Within 90 days after the Secretary conducts a hearing on a proposed assessment, the Secretary must make a decision on the proposed assessment and notify the taxpayer of the decision. The decision must assess the taxpayer for the amount of any tax the Secretary determined to be due.

~~Any taxpayer who objects to a proposed assessment of tax or additional tax shall be entitled to a hearing before the Secretary of Revenue provided application therefor is made in writing within 30 days after the mailing or delivery of the notice required by subsection (a). If application for a hearing is made in due time, the Secretary of Revenue shall set a time and place for the hearing and after considering the taxpayer's objections shall give written notice of his decision to the taxpayer. The amount of tax or additional tax due from the taxpayer as finally determined by the Secretary shall thereupon be assessed and upon assessment shall become immediately due and collectible.~~

~~Provided, the taxpayer may request the Secretary at any time within 30 days of notice of such proposed assessment for a written statement, or transcript, of the information and the evidence upon which the proposed assessment is based, and the Secretary of Revenue shall furnish such statement, or transcript, to the taxpayer. Provided, further, after request by the taxpayer for such written statement, or transcript, the taxpayer shall have 30 days after the receipt of the same from the Secretary of Revenue to apply in writing for such hearing, explaining in detail his objections to such proposed assessment. If no request for such hearing is so made, such proposed assessment shall be final and conclusive.~~

(d) Assessment. -- ~~If no timely application for a hearing is made within 30 days after notice of a proposed assessment of tax or additional tax is given pursuant to subsection (a), such proposed tax or additional tax assessment shall become final without further notice and shall be immediately due and collectible.~~ If a taxpayer does not apply for a hearing in accordance with subsection (c) of this section, a

proposed assessment becomes final without further notice. If a taxpayer applies for a hearing in accordance with subsection (c) of this section, a proposed assessment becomes final when the taxpayer is notified of the decision made after the hearing. An assessment that is final is immediately due and collectible. G.S. 105-241.2, 105-241.3, and 105-241.4 apply to a tax assessed under this section.

Except in the case of a jeopardy assessment, the Secretary may not assess a taxpayer for a tax until the notice required by subsection (a) has been given and one of the following has occurred:

(1) The time for applying for a hearing has expired.

(2) The Secretary and the taxpayer have agreed upon a settlement.

(3) The taxpayer has filed a timely application for a hearing and the Secretary, after conducting the hearing, has given the taxpayer written notice of the decision.

(d1) Notice of Assessment. -- The Secretary must notify the taxpayer when a proposed assessment becomes final and is therefore collectible. The notice must identify the amounts of any tax, interest, additions to tax, and penalties included in the assessment. The notice must include or be accompanied by a brief statement in simple and nontechnical terms of all of the following:

(1) The Department's authority to, and procedure for, levy on and sale of the taxpayer's property.

(2) The taxpayer's available administrative appeals regarding the levy and sale of property, including the procedures for appeal.

(3) Other options available to the taxpayer that could prevent levy on the property.

(4) Procedures to redeem property and obtain release of a lien on property.

(e) Where a proper application for a license or a return has been filed and in the absence of fraud, the Secretary of Revenue shall assess any tax or additional tax due from a taxpayer within three years after the date upon which such application or return is filed or within three years after the date upon which such application or return was required by law to be filed, whichever is the later. Any tax or additional tax due from the taxpayer may be assessed at any time if (i) no proper application for a license or no return has been filed, (ii) a false or fraudulent application or return has been filed, or (iii) there has been an attempt in any manner to fraudulently defeat or evade tax.

Provided, the taxpayer may make a written waiver of any of the limitations of time set out in this section, for either a definite or indefinite time, and if such waiver is accepted by the Secretary he may institute assessment procedures at any time within the time extended

by such waiver. This proviso shall apply to assessments made or undertaken under any provision of all schedules of the Revenue Act, and to assessments under Subchapter V of Chapter 105 and Chapter 18 of the General Statutes.

~~(f) Except as hereinafter provided in subsection (g), the Secretary of Revenue shall have no authority to assess any tax or additional tax under this section until the notice required by subsection (a) shall have been given and the period within which an application for a hearing may be filed has expired, or if a timely application for a hearing is filed, until written notice of the Secretary's decision has been given to the taxpayer, provided, however, that if the notice required by subsection (a) shall be mailed or delivered within the limitation prescribed in subsection (e), such limitation shall be deemed to have been complied with and the proceeding may be carried forward to its conclusion.~~

(g) Jeopardy Assessments. -- Notwithstanding any other provision of this section, the Secretary ~~of Revenue shall have authority~~ may at any time within the applicable period of limitations ~~to proceed at once to~~ immediately assess any tax ~~or additional tax which he~~ the Secretary finds is due from a taxpayer ~~if, in his opinion, the~~ if the Secretary determines that collection of ~~such~~ the tax is in jeopardy and immediate assessment is necessary in order to protect the interest of the ~~State, provided, however, that if an assessment is made pursuant to the authority set forth in this subsection before the notice required by subsection (a) is given, such assessment shall not be valid unless the notice required by subsection (a) shall be given within 30 days after the date of such assessment.~~ State. For a jeopardy assessment, the Secretary may give the taxpayer the notice of proposed assessment required by subsection (a) any time within 30 days after the jeopardy assessment is made. The taxpayer may request a hearing on the jeopardy assessment by following the procedure described in the notice.

Within five days after a jeopardy assessment is made under this subsection that is not the result of a criminal investigation or of a liability for a tax imposed under Article 2D of this Chapter, the Secretary must provide the taxpayer with a written statement of the information upon which the Secretary relied in making the assessment. Within 30 days after receipt of this written statement or, if no statement is received, within 30 days after the statement was due, the taxpayer may request the Secretary to review the action taken. After receipt of this request, the Secretary must determine whether making the jeopardy assessment was reasonable under all the circumstances and whether the amount assessed is reasonable under all the circumstances. The Secretary must give the taxpayer written

notice of this determination within 30 days after the request. The taxpayer may seek judicial review of this determination as provided in G.S. 105-241.5.

~~(h) The rules of evidence do not apply in a hearing before the Secretary of Revenue under this section. G.S. 105-241.2, 105-241.3, and 105-241.4 apply to a tax or additional tax assessed under this section.~~

(i) All assessments of taxes or additional taxes, exclusive of penalties assessed thereon, shall bear interest from the time the taxes or additional taxes were due until paid. On or before June 1 and December 1 of each year, the Secretary of Revenue shall establish the interest rate to be in effect during the six-month period beginning on the next succeeding July 1 and January 1, respectively, after giving due consideration to current market conditions and to the rate that will be in effect on that date pursuant to the Internal Revenue Code. If no new rate is established, the rate in effect during the preceding six-month period shall continue in effect. The rate established by the Secretary may not be less than five percent (5%) per year and may not exceed sixteen percent (16%) per year. For refunds and assessments made between July 1, 1982, and December 31, 1982, the rate shall be twelve percent (12%) per year.

From and after January 1, 1978, interest upon assessments and upon additional taxes shall be computed at the rate established by G.S. 105-241.1(i) and shall be computed without regard to any former rate of interest which might have been established by G.S. 105-241.1 for the taxable period for which said assessment was made, or for the period within which said taxes were due to be paid.

~~(i1) 'Tax' and 'additional tax,' for the purposes of this Subchapter and for the purposes of Subchapters V and VIII of this Chapter, include penalties and interest, as well as the principal amount of such tax or additional tax.~~

(j) This section is in addition to and not in substitution of any other provision of the General Statutes relative to the assessment and collection of taxes and shall not be construed as repealing any other provision of the General Statutes."

Sec. 3. G.S. 105-241.2 reads as rewritten:

"§ *105-241.2. Administrative review.*

(a) Petition for Administrative Review. -- Without having to pay the tax or additional tax assessed by the Secretary under this Chapter, any taxpayer may ~~secure~~ obtain from the Tax Review Board an administrative review with respect to ~~his~~ the taxpayer's liability for the tax or additional tax assessed by the Secretary. Such a review may be obtained only if the taxpayer has obtained a hearing before the Secretary and the Secretary has rendered a final decision with respect

to the taxpayer's liability. If a taxpayer has made a timely written demand for refund of an alleged overpayment and the Secretary has issued a decision denying part or all of the claimed refund, the taxpayer may obtain from the Tax Review Board an administrative review of the Secretary's decision. To obtain ~~such~~ administrative review the taxpayer ~~shall:~~ must take the following actions:

(1) ~~File~~ Within 30 days after the Secretary's final decision is issued, file with the Tax Review Board, with a copy to the Secretary, notice of intent to file a petition for ~~review, such notice to be filed within 30 days after notice of the Secretary's final decision is issued; and~~ review.

(2) ~~File~~ Within 60 days after the Secretary's final decision is issued, file with the Tax Review Board, with a copy to the Secretary, a petition requesting administrative review and stating in concise terms the grounds upon which review is ~~sought, such petition to be filed within 60 days after the expiration of the period provided in subdivision (1) for filing of notice of intent to petition for review.~~ sought.

(b) Secretary to Provide Records. -- Upon receipt by the Secretary of the taxpayer's petition, the Secretary shall transmit to the Tax Review Board all of the records, data, ~~evidence~~ evidence, and other materials ~~which he has~~ in the Secretary's possession pertaining to the matters ~~which~~ the Tax Review Board is being requested by the taxpayer to review. ~~He~~ The Secretary shall also transmit to the Board a copy of ~~his~~ the decision ~~respecting such~~ of the Board on the matters.

(b1) Hearing. -- Within 60 days after a timely petition for administrative review has been filed and at least 10 days before the date set for the hearing, the Tax Review Board shall notify the taxpayer and the Secretary in writing of the time and place at which the hearing will be conducted. The hearing shall be held in Raleigh and the date set for the hearing shall be within 90 days after the timely petition for administrative review was filed or at a later date mutually agreed upon by the taxpayer and the Secretary. The date set for the hearing may be postponed once at the request of the taxpayer and once at the request of the Secretary for a period of up to 90 days or for a longer period mutually agreed upon by the taxpayer and the Secretary. ~~The Tax Review Board shall fix a time for reviewing the Secretary's decision and shall hear the same in the City of Raleigh. The Board shall give notice of the time and place of such hearing to the petitioner and to the Secretary at least 10 days prior thereto.~~ Officers and employees of the Revenue Department, when so requested by the Board, shall attend hearings on ~~such reviews~~ petitions for review and shall furnish the Board with all information they have respecting the asserted liability. The Tax Review Board may establish ~~by regulation~~

the procedure to be followed in hearings before it and ~~is authorized to~~ may establish ~~by regulations~~ a schedule of costs of the proceedings. At least two members of the Board shall sit at the hearing and all members shall consider and decide the matters on review.

(b2) Decision of Tax Review Board. -- ~~The~~ Within 90 days after conducting a hearing under this section, the Board shall confirm, modify, reverse, reduce, or increase the assessment or decision of the Secretary, ~~and it shall~~ furnish a written copy of its order to the ~~Secretary and shall~~ Secretary, and serve a written copy of its order upon the taxpayer by personal service or by registered mail (return receipt requested). ~~In the event~~ If the decision of the Tax Review Board ~~should~~ does not result in a reduction of the tax liability asserted by the Secretary to be due, or if the Tax Review Board ~~should dismiss the petition under the provisions of~~ dismisses the petition under subsection (c) of this section, the costs of the proceeding shall be added to and shall become a part of the tax liability to be collected by the Secretary. ~~In the event~~ If the decision of the Tax Review Board should result in a reduction of the tax liability asserted by the Secretary to be ~~due,~~ due or in a refund to the taxpayer, no costs shall be taxed against the taxpayer. Any overpayment of tax determined by the decision of the Tax Review Board, together with interest thereon at the rate and for the period provided under G.S. 105-266, shall be refunded by the State.

(c) Frivolous Petitions. -- Upon receipt of a petition requesting administrative review as provided in the preceding subsection, the Tax Review Board shall examine the petition and the records and other data transmitted by the Secretary pertaining to the matter for which review is sought, and if it should appear from such records and data that the petition is frivolous or filed for purpose of delay, the Tax Review Board shall dismiss the petition for review and, in addition, is authorized, in its discretion, to impose a penalty not to exceed one hundred dollars ($100.00), which penalty shall be in addition to the tax, penalties, interests, and costs, and shall be collected in the same manner as the principal tax liability.

~~(d) Any taxpayer may also apply to the Tax Review Board under the provisions of this section for administrative review of the decision of the Secretary of Revenue with respect to an alleged overpayment of tax imposed by this Chapter provided such taxpayer has filed a demand in writing for refund of such overpayment within the time allowed by law for the filing of such demand and the Secretary has issued a decision denying the claimed refund. To obtain such review the taxpayer shall file notice of intent to petition for review with the Tax Review Board, with copy to the Secretary, within 30 days after issuance of the Secretary's decision. The taxpayer shall also perfect the application for~~

~~review by filing with the Tax Review Board, with a copy to the Secretary, a petition requesting administrative review and stating in concise terms the grounds upon which review is sought. Such petition shall be filed within 60 days after expiration of the period provided for filing notice of intent to petition for review. The Tax Review Board shall consider and dispose of the petition for review in the manner provided in subsection (b) for the consideration and disposition of petitions for review of any tax or additional tax assessed by the Secretary. No costs shall, however, be taxed against the taxpayer if the decision of the Tax Review Board results in a refund to the taxpayer. Any overpayment of tax determined by the decision of the Tax Review Board, together with interest thereon at the rate and for the period provided under G.S. 105-266, shall be refunded by the State.~~

(e) Jeopardy Assessments. -- At any time the Secretary ~~of Revenue shall have authority, if in his~~ may, if in the Secretary's opinion, such action is necessary for the protection of the interest of the State, ~~to~~ proceed at once to levy the assessment for the amount of the tax against the property of the taxpayer seeking the administrative review. In levying ~~said~~ the assessment the Secretary shall make a certificate ~~setting forth~~ verifying the essential parts relating to the tax, including the amount thereof asserted to be due, the date when same is asserted to have become due and payable, the person, firm, or corporation chargeable therewith, and the nature of the tax. ~~Under his hand and seal the~~ The Secretary shall transmit ~~said~~ this certificate to the clerk of the superior court of any county in which the taxpayer resides or has property; whereupon, it shall be the duty of the clerk of the superior court of the county to docket the ~~said~~ certificate and to index ~~the same~~ it on the cross index of judgments. When so docketed and indexed, ~~said~~ the certificate of tax liability shall constitute a lien upon the property of the taxpayer to the same extent as that provided for by G.S. 105-241. No execution shall issue on ~~said~~ the certificate before final determination of the administrative review by the Tax Review Board; provided, however, if the Secretary determines that the collection of the tax would be jeopardized by delay, ~~he~~ the Secretary may cause execution to be issued, as provided in this Chapter, immediately against the personal property of the taxpayer unless the taxpayer files with the Secretary a bond in the amount of the asserted liability for tax, penalty and interest. If upon ~~such~~ final administrative determination the tax asserted or any part thereof is sustained, execution may issue on ~~said~~ the certificate at the request of the Secretary ~~of Revenue,~~ and the sheriff shall proceed to advertise and sell the property of the taxpayer.

Within five days after a jeopardy levy is made under this subsection that is not the result of a criminal investigation or of a liability for a

tax imposed under Article 2D of this Chapter, the Secretary must provide the taxpayer with a written statement of the information upon which the Secretary relied in making the levy. Within 30 days after receipt of this statement or, if no statement was received, within 30 days after the statement was due, the taxpayer may request the Secretary to review the action taken. After receipt of this request, the Secretary shall determine whether the levy was reasonable under the circumstances. The Secretary shall give the taxpayer written notice of this determination within 30 days after the request. The taxpayer may seek judicial review of this determination as provided in G.S. 105-241.5.

~~(f) Taxpayers seeking administrative review of liability decisions of the Commissioner of Insurance under Article 8B of this Subchapter shall follow the procedure prescribed in subsection (a) of this section for taxpayers seeking administrative review of decisions of the Secretary of Revenue. In such cases all provisions of this section referring to the Secretary of Revenue shall be considered as applying to the Commissioner of Insurance.~~"

Sec. 4. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ *105-241.5. Appeal of certain jeopardy actions.*

Within 90 days after the earlier of the date a taxpayer received or should have received a determination of the Secretary concerning a jeopardy assessment under G.S. 105-241.1(g) or a jeopardy levy under G.S. 105-241.2(e), the taxpayer may bring a civil action, in the Superior Court of Wake County or of the county in North Carolina in which the taxpayer resides, seeking review of the jeopardy action. Within 20 days after the action is filed, the court shall determine:

(1) In the case of a jeopardy assessment, whether the assessment is reasonable under the circumstances and whether the amount assessed is appropriate under the circumstances.

(2) In the case of a jeopardy levy, whether the levy is reasonable under the circumstances.

If the court determines that an action of the Secretary is unreasonable or inappropriate, the court may order the Secretary to take any action the court finds appropriate. If the taxpayer shows reasonable grounds why the 20-day limit on the court should be extended, the court may grant an extension of not more than 40 additional days."

Sec. 5. G.S. 105-242 reads as rewritten:

"§ *105-242. Warrants for collection of taxes; garnishment and attachment; certificate or judgment for taxes.*

(a) Warrants for Collection of Taxes. -- If any tax ~~imposed by this Subchapter, or any other tax~~ levied by the State and payable to the

~~Secretary of Revenue,~~ Secretary has not been paid within 30 days after ~~it became due and payable, and after it was assessed,~~ the taxpayer was given a notice of final assessment of the tax under G.S. 105-241.1(d1), the Secretary ~~of Revenue~~ may take either of the following actions to collect the tax:

(1) The Secretary may issue a warrant or an order under the Secretary's hand and official seal, directed to the sheriff of any county of the State, commanding him to levy upon and sell the real and personal property of the taxpayer found within the county for the payment of the tax, including penalties and interest, and the cost of executing the warrant and to return to the Secretary the money collected, within a time to be specified in the warrant, not less than 60 days from the date of the warrant; the sheriff upon receipt of the warrant shall proceed in all respects with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner.

(2) The Secretary may issue a warrant or order under the Secretary's hand and seal to any revenue officer or other employee of the Department of Revenue charged with the duty to collect taxes, commanding the officer or employee to levy upon and sell the taxpayer's personal property, including that described in G.S. 105-366(d), found within the State for the payment of the tax, including penalties and interest. Except as otherwise provided in this subdivision, the levy upon the sale of personal property shall be governed by the laws regulating levy and sale under execution. The person to whom the warrant is directed shall proceed to levy upon and sell the personal property subject to levy in the same manner and with the same powers and authority normally exercised by sheriffs in levying upon and selling personal property under execution, except that the property may be sold in Wake County or in the county in which it was seized, in the discretion of the Secretary. In addition to the notice of sale required by the laws governing sale of property levied upon under execution, the Secretary may advertise the sale in any reasonable manner and for any reasonable period of time to produce an adequate bid for the property. Levy and sale fees, plus actual advertising costs, shall be added to and collected in the same manner as taxes.

(b) Garnishment and Attachment. -- Bank deposits, rents, salaries, wages, and all other choses in action or property incapable of manual

levy or delivery, including property held in the Escheat Fund, hereinafter called the intangible, belonging, owing, or to become due to any taxpayer subject to any of the provisions of this Subchapter, or which has been transferred by such taxpayer under circumstances which would permit it to be levied upon if it were tangible, shall be subject to attachment or garnishment as herein provided, and the person owing said intangible, matured or unmatured, or having same in his possession or control, hereinafter called the garnishee, shall become liable for all sums due by the taxpayer under this Subchapter to the extent of the amount of the intangible belonging, owing, or to become due to the taxpayer subject to the setoff of any matured or unmatured indebtedness of the taxpayer to the garnishee; provided, however, the garnishee shall not become liable for any sums represented by or held pursuant to any negotiable instrument issued and delivered by the garnishee to the taxpayer and negotiated by the taxpayer to a bona fide holder in due course, and whenever any sums due by the taxpayer and subject to garnishment are so held or represented, the garnishee shall hold such sums for payment to the Secretary of Revenue upon the garnishee's receipt of such negotiable instrument, unless such instrument is presented to the garnishee for payment by a bona fide holder in due course in which event such sums may be paid in accordance with such instrument to such holder in due course. To effect such attachment or garnishment the Secretary of Revenue shall serve or cause to be served upon the taxpayer and the garnishee a notice as hereinafter provided, which notice may be served by any deputy or employee of the Secretary of Revenue or by any officer having authority to serve summonses or may be served in any manner provided in Rule 4 of the North Carolina Rules of Civil Procedure. The notice shall:

(1) Show the name of the taxpayer, and if known his Social Security number or federal tax identification number and his address;

(2) Show the nature and amount of the tax, and the interest and penalties thereon, and the year or years for which the same were levied or assessed, and

(3) Be accompanied by a copy of this subsection, and thereupon the procedure shall be as follows:

If the garnishee has no defense to offer or no setoff against the taxpayer, he shall within 10 days after service of said notice, answer the same by sending to the Secretary of Revenue by registered or certified mail a statement to that effect, and if the amount due or belonging to the taxpayer is then due or subject to his demand, it shall be remitted to the Secretary with said statement, but if said amount is to mature in the future, the statement shall set forth that fact and the

same shall be paid to the Secretary upon maturity, and any payment by the garnishee hereunder shall be a complete extinguishment of any liability therefor on his part to the taxpayer. If the garnishee has any defense or setoff, he shall state the same in writing under oath, and, within 10 days after service of said notice, shall send two copies of said statement to the Secretary by registered or certified mail; if the Secretary admits such defense or setoff, he shall so advise the garnishee in writing within 10 days after receipt of such statement and the attachment or garnishment shall thereupon be discharged to the amount required by such defense or setoff, and any amount attached or garnished hereunder which is not affected by such defense or setoff shall be remitted to the Secretary as above provided in cases where the garnishee has no defense or setoff, and with like effect. If the Secretary shall not admit the defense or setoff, he shall set forth in writing his objections thereto and shall send a copy thereof to the garnishee within 10 days after receipt of the garnishee's statement, or within such further time as may be agreed on by the garnishee, and at the same time he shall file a copy of said notice, a copy of the garnishee's statement, and a copy of his objections thereto in the superior court of the county where the garnishee resides or does business where the issues made shall be tried as in civil actions.

If judgment is entered in favor of the Secretary of Revenue by default or after hearing, the garnishee shall become liable for the taxes, interest and penalties due by the taxpayer to the extent of the amount over and above any defense or setoff of the garnishee belonging, owing, or to become due to the taxpayer, but payments shall not be required from amounts which are to become due to the taxpayer until the maturity thereof, nor shall more than ten percent (10%) of any taxpayer's salary or wages be required to be paid hereunder in any one ~~month.~~ month as provided in subdivision (e)(4) of this section. The garnishee may satisfy said judgment upon paying said amount, and if he fails to do so, execution may issue as provided by law. From any judgment or order entered upon such hearing either the Secretary of Revenue or the garnishee may appeal as provided by law. If, before or after judgment, adequate security is filed for the payment of said taxes, interest, penalties, and costs, the attachment or garnishment may be released or execution stayed pending appeal, but the final judgment shall be paid or enforced as above provided. The taxpayer's sole remedies to question his liability for said taxes, interest, and penalties shall be those provided in this Subchapter, as now or hereafter amended or supplemented. If any third person claims any intangible attached or garnished hereunder and his lawful right thereto, or to any part thereof, is shown to the Secretary, he shall discharge the attachment or garnishment to the extent necessary

to protect such right, and if such right is asserted after the filing of said copies as aforesaid, it may be established by interpleader as now or hereafter provided by law in cases of attachment and garnishment. In case such third party has no notice of proceedings hereunder, he shall have the right to file his petition under oath with the Secretary at any time within 12 months after said intangible is paid to him and if the Secretary finds that such party is lawfully entitled thereto or to any part thereof, he shall pay the same to such party as provided for refunds by G.S. 105-266.1, and if such payment is denied, said party may appeal from the determination of the Secretary under the provisions of G.S. 105-241.4; provided, that in taking an appeal to the superior court, said party may appeal either to the Superior Court of Wake County or to the superior court of the county wherein he resides or does business. The intangibles of a taxpayer shall be paid or collected hereunder only to the extent necessary to satisfy said taxes, interest, penalties, and costs. Except as hereinafter set forth, the remedy provided in this section shall not be resorted to unless a warrant for collection or execution against the taxpayer has been returned unsatisfied: Provided, however, if the Secretary is of opinion that the only effective remedy is that herein provided, it shall not be necessary that a warrant for collection or execution shall be first returned unsatisfied, and in no case shall it be a defense to the remedy herein provided that a warrant for collection or execution has not been first returned unsatisfied.

This subsection shall be applicable with respect to the wages, salary or other compensation of officials and employees of this State and its agencies and instrumentalities, officials and employees of political subdivisions of this State and their agencies and instrumentalities, and also officials and employees of the United States and its agencies and instrumentalities insofar as the same is permitted by the Constitution and laws of the United States. In the case of State or federal employees, the notice shall be served upon such employee and upon the head or chief fiscal officer of the department, agency, instrumentality or institution by which the taxpayer is employed. In case the taxpayer is an employee of a political subdivision of the State, the notice shall be served upon such employee and upon the chief fiscal officer, or any officer or person charged with making up the payrolls, or disbursing funds, of the political subdivision by which the taxpayer is employed. Such head or chief officer or fiscal officer or other person as specified above shall thereafter, subject to the limitations herein provided, make deductions from the salary or wages due or to become due the taxpayer and remit same to the Secretary until the tax, penalty, interest and costs allowed by law are fully paid.

Such deductions and remittances shall, **pro tanto**, constitute a satisfaction of the salary or wages due the taxpayer.

(c) Certificate or Judgment for Taxes. -- In addition to the remedy herein provided, the Secretary of Revenue is authorized and empowered to make a certificate setting forth the essential particulars relating to the said tax, including the amount thereof, the date when the same was due and payable, the person, firm, or corporation chargeable therewith, and the nature of the tax, and under his hand and seal transmit the same to the clerk of the superior court of any county in which the delinquent taxpayer resides or has property; whereupon, it shall be the duty of the clerk of the superior court of the county to docket the said certificate and index the same on the cross index of judgments, and execution may issue thereon with the same force and effect as an execution upon any other judgment of the superior court (said tax shall become a lien on realty only from the date of the docketing of such certificate in the office of the clerk of the superior court and on personalty only from the date of the levy on such personalty and upon the execution thereon no homestead or personal property exemption shall be ~~allowed).~~ allowed except as provided in subdivision (e)(1) of this section).

Except as provided in ~~subsection (e) of G.S. 105-241.2,~~ G.S. 105-241.2(e) for jeopardy levies, no sale of real or personal property shall be made under any execution issued on a certificate docketed pursuant to the provisions of this subsection before the administrative action of the Secretary of Revenue or the Tax Review Board is completed when a hearing has been requested of the Secretary or a petition for review has been filed with the Tax Review Board, nor shall such sale be made before the assessment on which the certificate is based becomes final when there is no request for a hearing before the Secretary or petition for review by the Tax Review Board. Neither the title to real estate nor to personal property sold under execution issued upon a certificate docketed under this subsection shall be drawn in question upon the ground that the administrative action contemplated by this paragraph was not completed prior to the sale of such property under execution. Nothing in this paragraph shall prevent the sheriff to whom an execution is issued from levying upon either real or personal property pending an administrative determination of tax liability and, in the case of personal property, the sheriff may hold such property in his custody or may restore the execution defendant to the possession thereof upon the giving of a sufficient forthcoming bond. Upon a final administrative determination of the tax liability being had, if the assessment or any part thereof is sustained, the sheriff shall, upon request of the Secretary of Revenue, proceed to advertise and sell the

property under the original execution notwithstanding the original return date of the execution may have expired.

The owner of tangible property seized under this section may request the Secretary to authorize the sale of the property under execution within 60 or more days after the request is made. The Secretary shall authorize the sale unless the Secretary finds that selling the property would not be in the best interests of the State. When property is sold at the request of the owner, the Department shall receive from the sale of the property the administrative expenses it incurred in having the property sold.

A certificate or judgment in favor of the State or the Secretary of Revenue for taxes payable to the Department of Revenue, whether docketed before or after the effective date of this paragraph, shall be valid and enforceable for a period of 10 years from the date of docketing. When any such certificate or judgment, whether docketed before or after the effective date of this paragraph, remains unsatisfied for 10 years from the date of its docketing, the same shall be unenforceable and the tax represented thereby shall abate. Upon the expiration of said 10-year period, the Secretary of Revenue or his duly authorized deputy shall cancel of record said certificate or judgment. Any such certificate or judgment now on record which has been docketed for more than 10 years shall, upon the request of any interested party, be canceled of record by the Secretary of Revenue or his duly authorized deputy; provided, in the event of the death of the judgment debtor or his absence from the State before the expiration of the 10-year period herein provided, the running of said 10-year period shall be stopped for the period of his absence from the State or during the pendency of the settlement of the estate and for one year thereafter, and the time elapsed during the pendency of any action or actions to set aside the judgment debtor's conveyance or conveyances as fraudulent, or the time during the pendency of any insolvency proceeding, or the time during the existence of any statutory or judicial bar to the enforcement of the judgment shall not be counted in computing the running of said 10-year period. And, provided further, that any execution sale which has been instituted upon any such judgment before the expiration of the 10-year period may be completed after the expiration of the 10-year period, notwithstanding the fact that resales may be required because of the posting of increased bids. Provided further, that, notwithstanding the expiration of the 10-year period provided and notwithstanding the fact that no proceedings to collect the judgment by execution or otherwise has been commenced within the 10-year period, the Secretary of Revenue may accept any payments tendered upon said judgments after the expiration of said 10-year period.

(c1) Release of Lien. -- The Secretary shall release the State tax lien on a taxpayer's property if the liability for which the lien attached has been satisfied. The Secretary may release the State tax lien on all or part of a taxpayer's property if one or more of the following findings is made:

(1) The liability for which the lien attached has become unenforceable due to lapse of time.

(2) The lien is creating an economic hardship due to the financial condition of the taxpayer.

(3) The fair market value of the property exceeds the tax liability and release of the lien on part of the property would not hinder collection of the liability.

(4) Release of the lien will probably facilitate, expedite, or enhance the State's chances for ultimately collecting a tax due the State.

If the Secretary of Revenue shall find that it will be for the best interest of the State in that it will probably facilitate, expedite or enhance the State's chances for ultimately collecting a tax due the State, he may authorize a deputy or agent to release the lien of a State tax judgment or certificate of tax liability upon a specified parcel or parcels of real estate by noting such release upon the judgment docket where such certificate of tax liability is recorded. Such release shall be signed by the deputy or agent and witnessed by the clerk of court or his deputy or assistant and shall be in substantially the following form: 'The lien of this judgment upon (insert here a short description of the property to be released sufficient to identify it, such as reference to a particular tract described in a recorded instrument) is hereby released, but this judgment shall continue in full force and effect as to other real property to which it has heretofore attached or may hereafter attach. This .... day of ....., 19.....

.....

Revenue ~~Collector~~ Officer, N.C. Department of Revenue

WITNESS:

..... 42 C.S.C.'

The release shall be noted on the judgment docket only upon conditions prescribed by the Secretary and shall have effect only as to the real estate described therein and shall not affect any other rights of the State under said judgment.

(d) Remedies Cumulative. -- The remedies herein given are cumulative and in addition to all other remedies provided by law for the collection of said taxes.

(e) Exempt Property. -- Only the following property is exempt from levy, attachment, and garnishment under this Article:

(1) The taxpayer's principal residence, unless the Secretary approves of the levy in writing or the Secretary finds that collection of the tax is in jeopardy.

(2) Tangible personal property that is exempt from federal levy as provided in section 6334 of the Code.

(3) Intangible personal property that is exempt from federal levy under section 6334 of the Code.

(4) Ninety percent (90%) of the taxpayer's salary or wages per month.

(f) Uneconomical Levy. -- The Secretary shall not levy against any property if the Secretary estimates before levy that the expenses the Department would incur in levying against the property would exceed the fair market value of the property.

(g) Erroneous Lien. -- A taxpayer may appeal to the Secretary after a certificate is filed under subsection (c) of this section if the taxpayer alleges an error in the filing of the lien. The Secretary shall make a determination of such an appeal as quickly as possible. If the Secretary finds that the filing of the certificate was erroneous, the Secretary shall issue a certificate of release of the lien as quickly as possible."

Sec. 6. G.S. 105-256 reads as rewritten:

"§ *105-256. Reports prepared by Secretary of Revenue.*

(a) Reports. -- The Secretary ~~of Revenue~~ shall prepare and publish the following:

(1) At least every two years, statistics concerning taxes imposed by this Chapter, including amounts collected, classifications of taxpayers, geographic distribution of taxes, and other facts considered pertinent and valuable.

(2) At least every two years, a tax expenditure report that lists the tax expenditures made by a provision in this Chapter other than a provision in Subchapter II and, when possible to do without impairing other duties of the Secretary or the Department of Revenue, the amount by which revenue is reduced by each expenditure. A 'tax expenditure' is an exemption, an exclusion, a deduction, an allowance, a credit, a refund, a preferential tax rate, or another device that reduces the amount of tax revenue that would otherwise be available to the State.

(3) As often as required, a report that is not listed in this subsection but is required by another law.

(4) As often as the Secretary determines is needed, other reports concerning taxes imposed by this Chapter.

(5) At least once a year, a statement of the taxpayer's bill of rights, which sets forth in simple and nontechnical terms the following:

a. The taxpayer's right to have the taxpayer's tax information kept confidential.

b. The rights of a taxpayer and the obligations of the Department during an audit.

c. The procedure for a taxpayer to appeal an adverse decision of the Department at each level of determination.

d. The procedure for a taxpayer to claim a refund for an alleged overpayment.

e. The procedure for a taxpayer to request information, assistance, and interpretations or to make complaints.

f. Penalties and interest that may apply and the basis for requesting waiver of a penalty.

g. The procedures the Department may use to enforce the collection of a tax, including assessment, jeopardy assessment, enforcement of liens, and garnishment and attachment.

(b) Information. -- The Secretary ~~of Revenue~~ may require a unit of State or local government to furnish the Secretary statistical information the Secretary needs to prepare a report under this section. Upon request of the Secretary, a unit of government shall submit statistical information on one or more forms provided by the Secretary.

(c) Distribution. -- The Secretary ~~of Revenue~~ shall distribute reports prepared by the Secretary as follows without charge:

(1) Five copies to the Division of State Library of the Department of Cultural Resources, as required by G.S. 125-11.7.

(2) Five copies to the Legislative Services Commission for the use of the General Assembly.

(3) Upon request, one copy to each entity and official to which a copy of the reports of the Appellate Division of the General Court of Justice is furnished under G.S. 7A-343.1.

(4) Upon request, one copy to each member of the General Assembly.

(5) One copy of the taxpayer's bill of rights to each taxpayer the Department contacts regarding determination or collection of a tax, other than by providing a tax form.

(6) Upon request, one copy of the taxpayer's bill of rights to each taxpayer.

The Secretary ~~of Revenue~~ may charge a person not listed in this subsection a fee for a report prepared by the Secretary in an amount that covers publication or copying costs and mailing costs."

Sec. 7. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"*§ 105-258.1. Taxpayer interviews.*

(a) Scope. -- This section applies to in-person interviews between a taxpayer and an officer or employee of the Department relating to the determination or collection of a tax, other than an in-person interview concerning any of the following:

(1) A criminal investigation.

(2) The determination or collection of a tax imposed by Article 2D of this Chapter.

(3) The assessment under G.S. 105-241.1(g) of a tax whose collection is in jeopardy.

(4) The levy or execution under G.S. 105-241.2(e) of an assessment whose collection is in jeopardy.

(b) Recording of Interview. -- The Department shall allow a taxpayer to make an audio recording of an interview at the taxpayer's expense and using the taxpayer's equipment. The Department may make an audio recording of an interview at its own expense and using its own equipment. The Department shall, upon request of the taxpayer, provide the taxpayer a transcript of an interview recorded by the Department; the Department may charge the taxpayer for the cost of the requested transcription and reproduction of the transcript.

(c) Disclosure of Procedure. -- At or before an initial interview relating to the determination of a tax, the Department shall provide the taxpayer a written explanation of the audit process and the taxpayer's rights in the process. At or before an initial interview relating to the collection of a tax, the Department shall provide the taxpayer a written explanation of the collection process and the taxpayer's rights in the process.

(d) Right of Consultation. -- A taxpayer may authorize a person to represent the taxpayer in an interview if the person has a written power of attorney executed by the taxpayer. The Department may not require a taxpayer to accompany the taxpayer's representative to the interview unless the Secretary has summoned the taxpayer pursuant to G.S. 105-258.

(e) Suspension of Interview. -- The Department shall suspend an interview relating to the determination of a tax if, at any time during the interview, the taxpayer expresses the desire to consult with a person permitted to represent the taxpayer before the Department."

Sec. 8. G.S. 105-260 reads as rewritten:

"*§ 105-260. ~~Deputies and clerks.~~ Evaluation of Department personnel.*

The Secretary may ~~appoint such deputies, clerks and assistants under his direction as may be necessary to administer the laws relating to the assessment and collection of all taxes provided for in this Subchapter; may remove and discharge same at his discretion, and shall fix their compensation within the rules and regulations prescribed by law.~~ not use records of tax enforcement results, or production goals based on these records, as the sole criteria in evaluating employees of the Department who are directly involved in tax collection activities or in evaluating the immediate supervisors of these employees. The Secretary must consider records of taxpayer complaints that named an employee as discourteous, unresponsive, or incompetent in evaluating the employee."

Sec. 9. G.S. 105-264 reads as rewritten:

"*§ 105-264. Effect of ~~interpretation, regulation, or ruling~~. Secretary's interpretation of revenue laws.*

It shall be the duty of the Secretary ~~of Revenue~~ to ~~construe~~ interpret all ~~sections of this Subchapter that are~~ laws administered by the ~~Secretary and all sections of Subchapter V,~~ Secretary. The Secretary's interpretation of these ~~sections~~ laws shall be consistent with the applicable ~~regulations. Interpretations~~ rules.

An interpretation by the Secretary ~~of Revenue shall be~~ is *prima facie* ~~correct, and a protection to the officers and taxpayers affected thereby. Whenever~~ correct. When the Secretary ~~of Revenue shall construe any provisions of the revenue laws administered by him and shall issue or publish to taxpayers in writing any regulation or ruling so construing the effect or operation of any such laws, such ruling or regulation shall be~~ interprets a law by adopting a rule or publishing a bulletin on the law, the interpretation is a protection to the officers and taxpayers affected ~~thereby~~ by the interpretation, and taxpayers ~~shall be~~ are entitled to rely upon ~~such regulation or ruling. In the event~~ the interpretation. If the Secretary ~~of Revenue shall change, modify, repeal, abrogate, or alter any such regulation or ruling any~~ changes a rule or a bulletin, a taxpayer who ~~has~~ relied upon the ~~construction or interpretation contained in the Secretary's previous ruling or regulation shall not be~~ rule or bulletin before it was changed is not liable for any penalty or additional assessment on ~~account of~~ any tax that accrued before the rule or bulletin was changed and was not paid by reason of reliance upon ~~such ruling or regulation and which might have accrued prior to the date of the change, modification, repeal, abrogation, or alteration by the Secretary, and during the effective period of such prior ruling or regulation. Provided, that nothing herein contained shall prevent any such change in construction or interpretation of the provisions of this Chapter by the Secretary of Revenue from being effective from and after the date of its issuance or~~

~~promulgation, or the assessment of any tax thereunder.~~ the rule or bulletin. If a taxpayer requests in writing specific advice from the Department and receives in response erroneous written advice, the taxpayer is not liable for any penalty or additional assessment attributable to the erroneous advice furnished by the Department to the extent the advice was reasonably relied upon by the taxpayer and the penalty or additional assessment did not result from the taxpayer's failure to provide adequate or accurate information.

This section does not prevent the Secretary from changing an interpretation and it does not prevent a change in an interpretation from applying on and after the effective date of the change."

Sec. 10. G.S. 105-266.1(a) reads as rewritten:

"(a) If a taxpayer claims that a tax or an additional tax paid by the taxpayer was excessive or incorrect, the ~~Any~~ taxpayer may apply to the Secretary ~~of Revenue~~ for refund of the tax or additional tax ~~paid by him~~ at any time within three years after the date set by the statute for the filing of the return or application for a license or within six months ~~from~~ after the date of payment of ~~such~~ the tax or additional tax, whichever is later.

The Secretary shall grant a hearing on each timely request for a refund. Within 60 days after a timely request for a refund has been filed and at least 10 days before the date set for the hearing, the Secretary shall notify the taxpayer in writing of the time and place at which the hearing will be conducted. The date set for the hearing shall be within 90 days after the timely request for a hearing was filed or at a later date mutually agreed upon by the taxpayer and the Secretary. The date set for the hearing may be postponed once, at the request of the taxpayer or the Secretary, for a period of up to 90 days or for a longer period mutually agreed upon by the taxpayer and the Secretary.

Within 90 days after conducting a hearing under this subsection, the Secretary shall make a decision on the requested refund, notify the taxpayer of the decision, and adjust the computation of the tax in accordance with the decision. The Secretary shall ~~The Secretary shall grant a hearing thereon, and if upon such hearing he shall determine that the tax is excessive or incorrect, he shall resettle the same according to the law and the facts, and adjust the computation of tax accordingly. The Secretary shall notify the taxpayer of his determination, and shall~~ refund to the taxpayer the ~~amount, if any, paid~~ amount of any tax the Secretary finds was paid incorrectly or paid in excess of the tax ~~found by him to be due;~~ due, except that there shall be no refund to the taxpayer of any sum set off under the provisions of Chapter 105A, the Set-off Debt Collection Act."

Sec. 11. G.S. 105-122(c)(2) reads as rewritten:

"(2) If any corporation believes that the method of allocation or apportionment hereinbefore described as administered by the Secretary ~~of Revenue~~ has operated or will so operate as to subject it to taxation on a greater portion of its capital stock, surplus and undivided profits than is reasonably attributable to business within the State, it ~~shall be entitled to~~ may file with the Tax Review Board a petition setting forth the facts upon which its belief is based and its argument with respect to the application of the allocation formula. This petition shall be filed in such form and within such time as the Tax Review Board may prescribe. The Board shall grant a hearing ~~thereon,~~ on the petition. The time limitations set in G.S. 105-241.2 for the date of the hearing, notification to the taxpayer, and a decision following the hearing apply to a hearing held pursuant to this subdivision.

At least three members of the Tax Review Board shall attend any hearing pursuant to such petition. In such cases the Tax Review Board's membership shall be augmented by the addition of the ~~Secretary of Revenue,~~ Secretary, who shall sit as a member of ~~said~~ the Board with full power to participate in its deliberations and decisions with respect to petitions filed under the provisions of this section. An informal record containing in substance the evidence, contentions and arguments presented at the hearing shall be made. All members of the augmented Tax Review Board shall consider such evidence, contentions and arguments, and the decision thereon shall be made by a majority vote of the augmented Board. ~~If the Board shall find that the application of the allocation formula subjects the corporation to taxation on a greater portion of its capital stock, surplus and undivided profits than is reasonably attributable to its business within this State:~~

~~a.~~ If the corporation ~~shall employ~~ employs in its books of account a detailed allocation of receipts and expenditures which reflects more clearly than the applicable allocation formula or alternative formulas prescribed by this section the portion of the capital stock, surplus and undivided profits attributable to the business within this State, application for permission to base the return upon the taxpayer's books of account shall be considered by the Tax Review Board. The Board ~~shall be authorized to~~ may permit such separate accounting method in lieu of applying the applicable allocation formula if the Board ~~deems such~~

~~method proper as best reflecting~~ finds that method best reflects the portion of the capital stock, surplus and undivided profits attributable to this State.

~~b.~~ If the corporation ~~shall show~~ shows that any other method of allocation than the applicable allocation formula or alternative formulas prescribed by this section reflects more clearly the portion of the capital stock, surplus and undivided profits attributable to the business within this State, application for permission to base the return upon such other method shall be considered by the Tax Review Board. The application shall be accompanied by a statement setting forth in detail, with full explanations, the method the taxpayer believes will more nearly reflect the portion of its capital stock, surplus and undivided profits attributable to the business within this State. If the Board ~~shall conclude~~ concludes that the allocation formula and the alternative formulas prescribed by this section allocate to this State a greater portion of the capital stock, surplus and undivided profits of the corporation than is reasonably attributable to business within this State, it shall determine the allocable portion by such other method as it ~~shall find~~ finds best calculated to assign to this State for taxation the portion reasonably attributable to its business within this State.

There shall be a presumption that the appropriate allocation formula reasonably attributes to this State the portion of the corporation's capital stock, surplus and undivided profits reasonably attributable to its business in this State and the burden shall rest upon the corporation to show the contrary. The relief herein authorized shall be granted by the Board only in cases of clear, cogent and convincing proof that the petitioning taxpayer is entitled thereto. No corporation shall use any alternative formula or method other than the applicable allocation formula provided by statute in making a franchise tax report or return to this State except upon order in writing of the Board and any return in which any alternative formula or other method other than the applicable allocation formula prescribed by statute is used without the permission of the Board, shall not be a lawful return.

When the Board determines, pursuant to the provisions of this Article, that an alternative formula or other method more accurately reflects the portion of the capital stock, surplus and undivided profits allocable to North Carolina

and renders its decision with regard thereto, the corporation shall allocate its capital stock, surplus and undivided profits for future years in accordance with such determination and decision of the Board so long as the conditions constituting the basis upon which the decision was made remain unchanged or until such time as the business method of operation of the corporation changes. Provided, however, that the Secretary ~~of Revenue may, in his discretion,~~ may, with respect to any subsequent year, require the corporation to furnish information relating to its property, operations and activities.

A corporation which proposes to do business in this State may file a petition with the Board setting forth the facts upon which it contends that the applicable allocation formula will allocate a greater portion of the corporation's capital stock, surplus and undivided profits to North Carolina than will be reasonably attributable to its proposed business within the State. Upon a proper showing in accordance with the procedure described above for determination by the Board, the Board may authorize such corporation to allocate its capital stock, surplus and undivided profits to North Carolina on the basis prescribed by the Board under the provisions of this section for such future years as the conditions constituting the basis upon which the Board's decision is made remain unchanged and the business operations of the corporation continue to conform to the statement of proposed methods of business operations presented by the corporation to the Board.

When the Secretary ~~of Revenue~~ asserts liability under the formula adjustment decision of the Tax Review Board, an aggrieved taxpayer may pay the tax under protest and bring a civil action for recovery under the provisions of G.S. 105-241.4."

Sec. 12. G.S. 105-130.4(t) reads as rewritten:

"(t) (1) If any corporation believes that the method of allocation or apportionment as administered by the Secretary ~~of Revenue~~ has operated or will so operate as to subject it to taxation on a greater portion of its income than is reasonably attributable to business or earnings within the State, it ~~shall be entitled to~~ may file with the Tax Review Board a petition setting forth the facts upon which its belief is based and its argument with respect to the application of the allocation formula. This petition shall be filed in such form and within such

time as the Tax Review Board may prescribe. The Board shall grant a hearing ~~thereon.~~ on the petition. The time limitations set in G.S. 105-241.2 for the date of the hearing, notification to the taxpayer, and a decision following the hearing apply to a hearing held pursuant to this subsection. At least three members of the Tax Review Board shall attend any hearing pursuant to such petition. In such cases, the Tax Review Board's membership shall be augmented by the addition of the ~~Secretary of Revenue~~ Secretary, who shall sit as a member of ~~said~~ the Board with full power to participate in its deliberations and decisions with respect to petitions filed under the provisions of this ~~section.~~ subsection. An informal record containing in substance the evidence, contentions and arguments presented at the hearing shall be made. All members of the augmented Tax Review Board shall consider such evidence, contentions and arguments and the decisions thereon shall be made by a majority vote of the augmented Board.

(2) If the corporation ~~shall employ~~ employs in its books of account a detailed allocation of receipts and expenditures which reflects more clearly than the applicable allocation formula prescribed by this section the income attributable to the business within this State, application for permission to base the return upon the taxpayer's books of account shall be considered by the Tax Review Board. The Board ~~shall be authorized to~~ may permit such separate accounting method in lieu of applying the applicable allocation formula if the Board ~~deems such method proper as best reflecting~~ finds that method best reflects the income and earnings attributable to this State.

(3) If the corporation ~~shall show~~ shows that any other method of allocation than the applicable allocation formula prescribed by this section reflects more clearly the income attributable to the business within this State, application for permission to base the return upon such other method shall be considered by the Tax Review Board. The application shall be accompanied by a statement setting forth in detail, with full explanations, the method the corporation believes will more nearly reflect its income from business within this State. If the Board ~~shall conclude~~ concludes that the allocation

formula prescribed by this section allocates to this State a greater portion of the net income of the corporation than is reasonably attributable to business or earnings within this State, it shall determine the allocable net income by such other method as it ~~shall find~~ finds best calculated to assign to this State for taxation the portion of the corporation's net income reasonably attributable to its business or earnings within this State.

(4) There shall be a presumption that the appropriate allocation formula reasonably attributes to this State the portion of the corporation's income earned in this State, and the burden shall rest upon the corporation to show the contrary. The relief herein authorized shall be granted by the Board only in cases of clear, cogent and convincing proof that the petitioning corporation is entitled thereto. No corporation shall use any alternative formula or method other than the applicable allocation formula provided by statute in making a report or return of its income to this State except upon order in writing of the Board, and any return in which any alternative formula or other method, other than the applicable allocation formula prescribed by statute, is used without permission of the Board shall not be a lawful return.

When the Board determines, pursuant to the provisions of this subsection, that an alternative formula or other method more accurately reflects the income allocable to North Carolina and renders its decision with regard thereto, the corporation shall allocate its net income for future years in accordance with such determination and decision of the Board so long as the conditions constituting the basis upon which the decision was made remain unchanged or until such time as the business method of operation of the corporation changes. Provided, however, that the Secretary ~~of Revenue may, in his discretion,~~ may, with respect to any subsequent year, require the corporation to furnish information relating to its property, operations, and activities.

(5) A corporation which proposes to do business in this State may file a petition with the Board setting forth the facts upon which it contends that the applicable allocation formula will allocate a greater portion of the corporation's future income to North Carolina than will

be reasonably attributable to its proposed business or contemplated earnings within the State. Upon a proper showing in accordance with the procedure described above for determinations by the Board, the Board may authorize such corporation to allocate income from its future business to North Carolina on the basis prescribed by the Board under the provisions of this section for such future years if the conditions constituting the basis upon which the Board's decision is made remain unchanged and the business operations of the corporation continue to conform to the statement of proposed methods of business operation presented by the corporation to the Board.

(6) When the Secretary ~~of Revenue~~ asserts liability under the formula adjustment decision of the Tax Review Board, an aggrieved corporation may pay the tax and bring a civil action for recovery under the provisions of Article 9."

Sec. 13. The Department of Revenue shall report annually to the Joint Legislative Commission on Governmental Operations on the quality of services provided to taxpayers, including telephone and walk-in assistance and taxpayer education.

Sec. 14. This act becomes effective January 1, 1994. The time limits on administrative hearings apply to requests for a hearing and petitions for administrative review filed under G.S. 105-241.1 or G.S. 105-242.2, as amended by this act, on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 1074 **CHAPTER 533**

AN ACT ENABLING NORTH CAROLINA TO JOIN THE DRIVERS LICENSE COMPACT, MAKING TECHNICAL AND CLARIFYING CHANGES TO THE MOTOR VEHICLE LAWS, AND ESTABLISHING NEW OFFENSES CONCERNING THE WRONGFUL ISSUANCE OF A DRIVERS LICENSE OR A SPECIAL IDENTIFICATION CARD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding a new Article 1C to read as follows:

"ARTICLE 1C.

"Drivers License Compact.

"§ *20-4.21. Title of Article.*

This Article is the Drivers License Compact and may be cited by that name.

"§ *20-4.22. Commissioner may make reciprocity agreements, arrangements, or declarations.*

The Commissioner may execute or make agreements, arrangements, or declarations to implement this Article.

"§ *20-4.23. Legislative findings and policy.*

(a) Findings. -- The General Assembly and the states that are members of the Drivers License Compact find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) The violation of a law or an ordinance relating to the operation of a motor vehicle is evidence that the violator engages in conduct that is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles in whichever jurisdiction the vehicle is operated.

(b) Policy. -- It is the policy of the General Assembly and of each of the states that is a member of the Drivers License Compact to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations of a member state relating to the operation of motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and the eligibility for a license to drive more just and equitable by making consideration of overall compliance with motor vehicle laws, ordinances, and administrative rules and regulations a condition precedent to the continuance or issuance of any license that authorizes the holder of the license to operate a motor vehicle in a member state.

"§ *20-4.24. Reports of convictions: effect of reports.*

(a) Reports. -- A state that is a member of the Drivers License Compact shall report to another member state of the compact a conviction for any of the following:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle.

(2) Driving a motor vehicle while impaired.

(3) A felony in the commission of which a motor vehicle was used.

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

If the laws of a member state do not describe the listed violations in precisely the words used in this subsection, the member state shall construe the descriptions to apply to offenses of the member state that are substantially similar to the ones described.

A state that is a member of the Drivers License Compact shall report to another member state of the compact a conviction for any other offense or any other information concerning convictions that the member states agree to report.

(b) Effect. -- A state that is a member of the Drivers License Compact shall treat a report of a conviction received from another member state of the compact as a report of the conduct that resulted in the conviction. For a conviction required to be reported under subsection (a), a member state shall give the same effect to the report as if the conviction had occurred in that state. For a conviction that is not required to be reported under subsection (a), a member state shall give the effect to the report that is required by the laws of that state. G.S. 20-23 governs the effect in this State of convictions that are not required to be reported under subsection (a).

"§ 20-4.25. *Review of license status in other states upon application for license in member state.*

Upon application for a license to drive, the licensing authority of a state that is a member of the Drivers License Compact must determine if the applicant has ever held, or currently holds, a license to drive issued by another member state. The licensing authority of the member state where the application is made may not issue the applicant a license to drive if:

(1) The applicant has held a license, but it has been revoked for a violation and the revocation period has not ended. If the revocation period is for more than one year and it has been at least one year since the license was revoked, the licensing authority may allow the applicant to apply for a new license if the laws of the licensing authority's state permit the application.

(2) The applicant currently holds a license to drive issued by another member state and does not surrender that license.

"§ 20-4.26. *Effect on other laws or agreements.*

Except as expressly required by the provisions of this Article, this Article does not affect the right of a member state to the Drivers License Compact to apply any of its other laws relating to licenses to drive to any person or circumstance, nor does it invalidate or prevent any driver license agreement or other cooperative arrangement between a member state and a state that is not a member.

"*§ 20-4.27. Effect on other State driver license laws.*

To the extent that this Article conflicts with general driver licensing provisions in this Chapter, this Article prevails. Where this Article is silent, the general driver licensing provisions apply.

"*§ 20-4.28. Administration and exchange of information.*

The head of the licensing authority of each member state is the administrator of the Drivers License Compact for that state. The administrators, acting jointly, have the power to formulate all necessary procedures for the exchange of information under this compact. The administrator of each member state shall furnish to the administrator of each other member state any information or documents reasonably necessary to facilitate the administration of this compact.

"*§ 20-4.29. Withdrawal from Drivers License Compact.*

A member state may withdraw from the Drivers License Compact. A withdrawal may not become effective until at least six months after the heads of all other member states have received notice of the withdrawal. Withdrawal does not affect the validity or applicability by the licensing authorities of states remaining members of the compact of a report of a conviction occurring prior to the withdrawal.

"*§ 20-4.30. Construction and severability.*

This Article shall be liberally construed to effectuate its purposes. The provisions of this Article are severable; if any part of this Article is declared to be invalid by a court, the invalidity does not affect other parts of this Article that can be given effect without the invalid provision. If the Drivers License Compact is declared invalid by a court in a member state, the compact remains in full force and effect in the remaining member states and in full force and effect for all severable matters in that member state."

Sec. 2. G.S. 20-7(b) reads as rewritten:

"(b) Every application for a drivers license shall be made upon the approved form furnished by the Division. The Division may require an applicant for a drivers license to present at least two forms of identification approved by the Commissioner. The Division may copy the identification presented or hold it for a brief period of time to verify its authenticity."

Sec. 3. Effective January 1, 1995, G.S. 20-7(c), as amended by the 1993 Session Laws, reads as rewritten:

"(c) Application and Tests. -- To obtain a drivers license from the Division, a person must complete an application form provided by the Division, present at least two forms of identification approved by the Commissioner, be a resident of this State, and demonstrate his or her physical and mental ability to drive safely a motor vehicle included in the class of license for which the person has applied. ~~To~~ The Division

may copy the identification presented or hold it for a brief period of time to verify its authenticity.

To obtain an endorsement, a person must demonstrate his or her physical and mental ability to drive safely the type of motor vehicle for which the endorsement is required. The Division shall note an endorsement on the face of a drivers license.

To demonstrate physical and mental ability, a person must pass an examination. The examination may include road tests, vision tests, oral tests, and, in the case of literate applicants, written tests, as the Division may require. The tests must ensure that an applicant recognizes the handicapped international symbol of access, as defined in G.S. 20-37.5. The Division may not require a person who applies to renew a license that has not expired to take a written test or a road test unless one or more of the following applies:

(1) The person has been convicted of a traffic violation since the person's license was last issued.

(2) The applicant suffers from a mental or physical condition that impairs the person's ability to drive a motor vehicle.

~~Provided, however, that persons~~ The Division may not require a person who is at least 60 years ~~of age and over, when being examined as herein provided, shall not be required~~ old to parallel park a motor vehicle as part of ~~any such examination,~~ a road test."

Sec. 4. G.S. 20-9(h) reads as rewritten:

"(h) The Division shall not issue a ~~driver's~~ drivers license to an applicant who ~~is the holder of any~~ currently holds a license to drive issued by another ~~state, district or territory of the United States and currently in force,~~ state unless the applicant surrenders ~~such license or licenses; provided, this section shall not apply to nonresident military personnel or members of their household,~~ the license."

Sec. 5. G.S. 20-17.4 is amended by adding a new subsection to read:

"(f) Revocation Period. -- A person is disqualified from driving a commercial motor vehicle for the period during which the person's regular or commercial drivers license is revoked."

Sec. 6. G.S. 20-23 reads as rewritten:

"*§ 20-23. ~~Suspending~~ Revoking resident's license upon conviction in another state.*

The Division ~~is authorized to suspend or~~ may revoke the license of any resident of this State upon receiving notice of the person's conviction ~~as defined in G.S. 20-24(c) of such person~~ in another state of ~~the offenses hereinafter enumerated which, if committed in this State, would be grounds for the suspension or revocation of the license of an operator. The provisions of this section shall apply only for the offenses as~~ an offense set forth in G.S. 20-26(a)."

Sec. 7. G.S. 20-24(a) reads as rewritten:

"(a) License. -- A court that convicts a person of an offense that requires revocation of the person's drivers license shall require the person to give the court any regular or commercial drivers license issued to that person. A court that convicts a person of an offense that requires disqualification of the person but would not require revocation of a regular drivers license issued to that person shall require the person to give the court any Class A or Class B regular drivers license and any commercial drivers license issued to that person.

The clerk of court shall accept a drivers license required to be given to the court under this subsection. A clerk of court who receives a drivers license shall give the person whose license is received a copy of a dated receipt for the license. The receipt must be on a form approved by the Commissioner. A revocation or disqualification for which a license is received under this subsection is effective as of the date on the receipt for the license.

The clerk of court shall ~~send to~~ notify the Division of a ~~any~~ license received under this ~~subsection,~~ subsection either by forwarding to the Division the license, a record of the conviction for which the license was received, and the original dated receipt for the ~~license,~~ license or by electronically sending to the Division the information on the license, the record of conviction, and the receipt given for the license. The clerk of court must forward the required items unless the Commissioner has given the clerk of court approval to notify the Division electronically. If the clerk of court notifies the Division electronically, the clerk of court must destroy a license received after sending to the Division the required information. The clerk of court shall ~~send these items to~~ notify the Division within 30 days after entry of the conviction for which the license was received."

Sec. 8. G.S. 20-34.1 reads as rewritten:

"§ *20-34.1. ~~Unlawful to issue licenses for anything of value except prescribed fees.~~ Violations for wrongful issuance of a drivers license or a special identification card.*

(a) ~~It shall be unlawful for any~~ An employee of the Division or of an agent of the Division ~~of Motor Vehicles to charge or accept~~ who does any of the following commits a Class J felony:

(1) Charges or accepts any money or other thing of ~~value~~ value, except the ~~fees prescribed by law~~ required fee, for the issuance of a ~~driver's license, and the~~ drivers license or a special identification card.

(2) Knowing it is false, accepts false proof of identification submitted for a drivers license or a special identification card.

(3) Knowing it is false, enters false information concerning a drivers license or a special identification card in the records of the Division.

(b) Defenses Precluded. -- The fact that the Division does not issue a license ~~is not issued~~ or a special identification card after ~~said~~ an employee or an agent of the Division charges or accepts money or ~~other~~ another thing of value ~~shall not constitute~~ for its issuance is not a defense to a criminal action under this section. ~~In a prosecution under this section it shall not be~~ It is not a defense to a criminal action under this section to show that the person ~~giving the money or other thing of value or the person receiving~~ who received or was intended to receive the license or ~~intended to receive the same is entitled to a license under the Uniform Driver's License Act. Any person violating this section shall be guilty of a felony and upon conviction shall be punished by imprisonment in the State's prison for not more than five years or by a fine of not more than five thousand dollars ($5,000) or by both such fine and imprisonment.~~ special identification card was eligible for it.

(c) Dismissal. -- An employee of the Division who violates this section shall be dismissed from employment and may not hold any public office or public employment in this State for five years after the violation. If a person who violates this section is an employee of the agent of the Division, the Division shall cancel the contract of the agent unless the agent dismisses that person. A person dismissed by an agent because of a violation of this section may not hold any public office or public employment in this State for five years after the violation."

Sec. 9. G.S. 20-62 is repealed.

Sec. 10. G.S. 20-115.1(b) reads as rewritten:

"(b) Motor vehicle combinations consisting of a semitrailer of not more than 53 feet in length and a truck tractor may be operated on the interstate highways (except those exempted by the United States Secretary of Transportation pursuant to 49 ~~USC~~ U.S.C. 2311(i)) and federal-aid primary system highways designated by the United States Secretary of Transportation provided that any semitrailer in excess of 48 feet in length shall not be permitted unless the distance between the kingpin of the trailer and the rearmost axle or a point midway between the two rear axles, if the two rear axles are a tandem axle, does not exceed 41 feet; and provided that any semitrailer in excess of 48 feet is equipped with a rear underride guard of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than ~~22 inches~~ 30 inches from the surface as measured with the vehicle empty and on a level surface."

Sec. 11. G.S. 20-118(e) reads as rewritten:

"(e) Penalties. --

(1) Except as provided in ~~G.S. 20-118(e)(2),~~ subdivision (2) of this subsection, for each violation of the single-axle or tandem-axle weight limits ~~as provided in G.S. 20-118(b)(1), 20-118(b)(2), and 20-118(b)(4), the owner or registrant of the vehicle shall pay to~~ set in subdivision (b)(1), (b)(2), or (b)(4) of this section, the Department of Transportation shall assess a civil penalty against the owner or registrant of the vehicle in accordance with the following schedule: for the first 1,000 pounds or any part thereof, four cents (4¢) per pound; for the next 1,000 pounds or any part thereof, six cents (6¢) per pound; and for each additional pound, ten cents (10¢) per pound. ~~The foregoing schedule of~~ These penalties ~~shall~~ apply separately to each weight limit violated. In all cases of violation of the weight limitation, the penalty shall be computed and assessed on each pound of weight in excess of the maximum ~~permitted in G.S. 20-118(b)(1), 20-118(b)(2), and 20-118(b)(4),~~ permitted.

(2) For ~~each~~ a violation of the single-axle or tandem-axle weight ~~limit as provided in G.S. 20-118(b)(1) and 20-118(b)(2) by vehicles~~ limits set in subdivision (b)(1) or (b)(2) of this section by a motor vehicle that is transporting processed ~~and~~ or unprocessed seafood from boats or any other point of origin to a processing plant or a point of further distribution, meats ~~and~~ or agricultural crop products originating from a ~~farm, or~~ farm to first market, unprocessed forest products originating from a farm or from woodlands to first market, or livestock or poultry by-products from their point of origin to a rendering plant, or that is fully ~~enclosed motor vehicles~~ enclosed, is designed specifically for collecting, ~~compacting~~ compacting, and hauling garbage from ~~residences,~~ residences or from garbage ~~dumpsters when operating for those purposes,~~ dumpsters, and is being operated for that purpose, the ~~owner or registrant of the vehicle shall pay to the~~ Department of Transportation shall assess a civil penalty ~~which equals~~ against the owner or registrant of the vehicle equal to the amount produced by applying one-half of the rate indicated in the schedule in ~~G.S. 20-118(e)(1)~~ subdivision (1) of this subsection to the weight in pounds on each axle in excess of the maximum weight in pounds ~~allowed under G.S. 20-118(b)(1) and 20-118(b)(2),~~ allowed.

(3) Except as provided in ~~G.S. 20-118(e)(4),~~ subdivision (4) of this subsection, for ~~each~~ a violation of ~~any~~ an axle-group

weight limit ~~as provided in G.S. 20-118(b)(3),~~ set in subdivision (b)(3) of this section, the ~~owner or registrant shall pay the~~ Department of Transportation shall assess a civil penalty against the owner or registrant of the motor vehicle in accordance with the following schedule: for the first 2,000 pounds or any part thereof, two cents (2¢) per ~~pound,~~ pound; for the next 3,000 pounds or any part thereof, four cents (4¢) per pound; for each pound in excess of 5,000 pounds, ten cents (10¢) per pound. ~~The schedule of~~ These penalties ~~shall~~ apply separately to each axle-group weight limit violated. The penalty shall be assessed on each pound of weight in excess of the maximum ~~permitted in G.S. 20-118(b)(3),~~ permitted.

(4) For ~~each~~ a violation of any weight limit ~~as provided in G.S. 20-118(b)(3) by vehicles~~ set in subdivision (b)(3) of this section by a motor vehicle ~~transporting processed and unprocessed seafood from boats or any other point of origin to a processing plant or a point of further distribution, meats and agricultural crop products originating from a farm or forest products originating from a farm or woodlands to first market, or livestock or poultry by-products from point of origin to a rendering plant, or fully enclosed motor vehicles designed specifically for collecting, compacting and hauling garbage from residences, or from garbage dumpsters when operating for those purposes, the owner or registrant shall pay to~~ described in subdivision (2) of this subsection, the Department of Transportation shall assess a civil penalty ~~which equals~~ against the owner or registrant of the motor vehicle equal to the amount produced by applying one-half of the rate indicated in the schedule in ~~G.S. 20-118(e)(3)~~ subdivision (3) of this subsection to the weight in pounds on each axle group in excess of the maximum weight in pounds ~~allowed under G.S. 20-118(b)(3),~~ allowed.

(5) The civil penalties provided in this section shall constitute the sole penalty for violations of ~~G.S. 20-118(b)(1), 20-118(b)(2), 20-118(b)(3), 20-118(b)(4), 20-118(i), and 20-118(j),~~ the weight limits in this section and violators thereof shall not be subject to criminal action except as provided in G.S. 20-96 and as provided in G.S. 136-72 for any vehicle or combination of vehicles exceeding the safe load carrying capacity for bridges on the State Highway System as established and posted by the Department of Transportation."

Sec. 12. Effective January 1, 1995, G.S. 20-7(b) is repealed.

Sec. 13. G.S. 136-55.1 reads as rewritten:

"§ *136-55.1. Notice of abandonment.*

(a) At least 60 days prior to any action by the Department of Transportation abandoning a segment of road and removing the same from the State highway system for maintenance, except roads abandoned on request of the county commissioners under G.S. 136-63, the Department of Transportation shall notify by registered mail or personal delivery all owners of property adjoining the section of road to be abandoned whose whereabouts can be ascertained by due diligence. Said notice shall describe the section of road which is proposed to be abandoned and shall give the date, place and time of the Department of Transportation meeting at which the action abandoning said section of road is to be taken.

(b) In keeping with its overall zoning scheme and long-range plans regarding the extraterritorial jurisdiction area, a municipality may keep open and assume responsibility for maintenance of a road within one mile of its corporate limits once it is abandoned from the State highway system."

Sec. 14. G.S. 136-63 reads as rewritten:

"§ *136-63. Change or abandonment of roads.*

(a) The board of county commissioners of any county may, on its own motion or on petition of a group of citizens, request the Board of Transportation to change or abandon any road in the secondary system when the best interest of the people of the county will be served thereby. The Board of Transportation shall thereupon make inquiry into the proposed change or abandonment, and if in its opinion the public interest demands it, shall make such change or abandonment. If the change or abandonment shall affect a road connecting with any street of a city or town, the change or abandonment shall not be made until the street-governing body of the city or town shall have been duly notified and given opportunity to be heard on the question. Any request by a board of county commissioners or street-governing body of a city refused by the Board of Transportation may be presented again upon the expiration of 12 months.

(b) In keeping with its overall zoning scheme and long-range plans regarding the extraterritorial jurisdiction area, a municipality may keep open and assume responsibility for maintenance of a road within one mile of its corporate limits once it is abandoned from the State highway system."

Sec. 15. Section 8 of this act becomes effective December 1, 1993. Sections 3 and 12 of this act become effective January 1, 1995. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 281 **CHAPTER 534**

AN ACT TO CREATE A STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143B of the General Statutes is amended by adding a new Article to read:

"ARTICLE 6A.

"North Carolina State-County Criminal Justice Partnership Act.

"§ *143B-272. Short title.*

This Article is the 'North Carolina State-County Criminal Justice Partnership Act of 1993' and may be cited by that name.

"§ *143B-272.1. Legislative policy.*

The policy of the General Assembly with respect to the State-county criminal justice partnership is:

(1) To support the implementation of the recommendations of the North Carolina Sentencing and Policy Advisory Commission by providing supplemental community-based corrections programs which appropriately punish criminal behavior and which provide effective rehabilitative services;

(2) To expand sentencing options by adding community-based corrections programs for offenders receiving a nonincarcerative sentence;

(3) To promote coordination between State and county community-based corrections programs; and

(4) To improve public confidence in the criminal justice system by educating the public on the role of community-based corrections programs.

"§ *143B-272.2. Definitions.*

The following definitions apply in this Article:

(1) Account. -- The State-County Criminal Justice Partnership Account.

(2) County Board. -- A County Criminal Justice Partnership Advisory Board.

(3) Department. -- The Department of Correction.

(4) Multi-County Board. -- A Multi-County Criminal Justice Partnership Advisory Board.

(5) Plan. -- A Community-Based Corrections Plan.

(6) Program. -- A Community-Based Corrections Program.

(7) Secretary. -- The Secretary of the Department of Correction.

(8) State Board. -- The State Criminal Justice Partnership Advisory Board.

"§ *143B-272.3. Goals of community-based corrections programs funded under this Article.*

The goals of community-based programs funded under this Article include:

(1) To reduce recidivism;

(2) To reduce the number of probation revocations;

(3) To reduce alcoholism and other drug dependencies among offenders; and

(4) To reduce the cost to the State and the counties of incarceration.

"§ *143B-272.4. Eligible population.*

(a) An eligible offender is an adult offender who either is in confinement awaiting trial, or was convicted of a misdemeanor or a felony offense and received a nonincarcerative sentence of an intermediate punishment or is serving a term of post-release supervision after completing an active sentence of imprisonment.

(b) The priority populations for programs funded under this Article shall be:

(1) Offenders sentenced to intermediate punishments; and

(2) Offenders who are appropriate for release from jail prior to trial under the supervision of a pretrial monitoring program.

"§ *143B-272.5. State-County Criminal Justice Partnership Account established.*

The State-County Criminal Justice Partnership Account is created within the Department of Correction. Revenue in the Account may be used only to make grants to counties for supplementary community-based correctional programs for eligible offenders in accordance with this Article. Revenue appropriated to the Account does not revert at the end of the fiscal year; it remains in the Account for expenditures in the following fiscal year.

"§ *143B-272.6. State Criminal Justice Partnership Advisory Board; members; terms; chairperson.*

(a) There is created the State Criminal Justice Partnership Advisory Board. The State Board shall act as an advisory body to the Secretary with regards to this Article. The State Board shall consist of 21 members as follows:

(1) A member of the Senate.

(2) A member of the House of Representatives.

(3) A judge of the Superior Court.

(4) A judge of the district court.

(5) A district attorney.

(6) A criminal defense attorney.

(7) A county sheriff.

(8) A chief of a city police department.

(9) Two county commissioners, one from a predominantly urban county and one from a predominantly rural county.

(10) A representative of an existing community-based corrections program.

(11) A member of the public who has been the victim of a crime.

(12) A rehabilitated ex-offender.

(13) A member of the business community.

(14) Three members of the general public, one of whom is a person recovering from chemical dependency or who is a previous consumer of substance abuse treatment services.

(15) A victim service provider.

(16) A member selected from each of the following service areas: mental health, substance abuse, and employment and training.

(b) The membership of the State Board shall be selected as follows:

(1) The Governor shall appoint the following members: the county sheriff, the chief of a city police department, the member of the public who has been the victim of a crime, a rehabilitated ex-offender, the members selected from each of the service areas.

(2) The Lieutenant Governor shall appoint the following members: the member of the business community, one member of the general public who is a person recovering from chemical dependency or who is a previous consumer of substance abuse treatment services, the victim service provider.

(3) The Chief Justice of the North Carolina Supreme Court shall appoint the following members: the superior court judge, the district court judge, the district attorney, the criminal defense attorney, the representative of an existing community-based corrections program.

(4) The President Pro Tempore of the Senate shall appoint the following members: the member of the Senate, the county commissioner from a predominantly urban county, one member of the general public.

(5) The Speaker of the House shall appoint the following members: the member of the House of Representatives, the county commissioner from a predominantly rural county, one member of the general public.

In appointing the members of the State Board, the appointing authorities shall make every effort to ensure fair geographic representation of the State Board membership and that minority persons and women are fairly represented.

(c) The initial members shall serve staggered terms, one-third shall be appointed for a term of one year, one-third shall be appointed for a term of two years, and one-third shall be appointed for a term of three years. The members identified in subdivisions (1) through (7) of subsection (a) of this section shall be appointed initially for a term of one year. The members identified in subdivisions (8) through (13) in subsection (a) of this section shall be appointed initially for a term of two years. The members identified in subdivisions (14) through (16) of subsection (a) of this section shall each be appointed for a term of three years.

At the end of their respective terms of office their successors shall be appointed for terms of three years. A vacancy occurring before the expiration of the term of office shall be filled in the same manner as original appointments for the remainder of the term. Members may be reappointed without limitation.

(d) Each appointing authority shall have the power to remove a member it appointed from the State Board for misfeasance, malfeasance, or nonfeasance.

(e) The members of the State Board shall, within 30 days after the last initial appointment is made, meet and elect one member as chairman and one member as vice-chairman.

(f) The State Board shall meet at least quarterly and may also hold special meetings at the call of the chairman. For purposes of transacting business, a majority of the membership shall constitute a quorum.

(g) Any member who has an interest in a governmental agency or unit or private nonprofit agency which is applying for a State-County Criminal Justice Partnership grant or which has received a grant and which is the subject of an inquiry or vote by a grant oversight committee, shall publicly disclose that interest on the record and shall take no part in discussion or have any vote in regard to any matter directly affecting that particular grant applicant or grantee. 'Interest' in a grant applicant or grantee shall mean a formal and direct connection to the entity, including, but not limited to, employment, partnership, serving as an elected official, board member, director, officer, or trustee, or being an immediate family member of someone who has such a connection to the grant applicant or grantee.

(h) The members of the State Board shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses.

"§ *143B-272.7. Duties of State Criminal Justice Partnership Advisory Board.*

The State Criminal Justice Partnership Advisory Board has the following duties:

(1) To recommend community-based corrections program priorities;

(2) To review the application process and procedures for funding community-based corrections programs, including the format for comprehensive community-based corrections plans;

(3) To review the criteria for monitoring and evaluating community-based corrections programs;

(4) To distribute an annual plan which describes the community-based corrections program priorities, and the application process and procedures for funding community-based corrections programs, including the format for comprehensive community-based corrections plans. The annual plan must also announce the amount of funds appropriated to the State-County Criminal Justice Partnership Account;

(5) To coordinate community-based corrections programs administered by the state agencies and programs funded under this Article;

(6) To review plans of participating counties and, based on the State Board's annual plan, to make recommendations to the Secretary to provide grant funding to counties for implementing and operating community-based corrections programs; and

(7) To review the minimum program standards, policies, and rules for community-based corrections programs.

(8) To evaluate the effects of categories of programs funded by this Article and prepare a written report.

"§ *143B-272.8. Duties of Department of Correction.*

In addition to those otherwise provided by law, the Department of Correction shall have the following duties:

(1) To provide technical assistance to applicants in developing, implementing, monitoring, evaluating, and operating community-based corrections programs.

(2) To enter into contractual agreements with county boards for the operation of community-based corrections programs and monitor compliance with those agreements.

(3) To act as an information clearinghouse regarding community-based corrections programs.

(4) To review plans of participating counties and to approve grants based on applications to assist them in the implementation and operation of community-based corrections programs.

(5) To develop policies and procedures for the disbursement of grant funds to participating counties on a reimbursement basis.

(6) To develop the minimum program standards, policies, and rules for community-based corrections programs.

(7) In instances of substantial noncompliance, the Secretary shall notify the board or boards of county commissioners, the county community corrections advisory board, and the chief administrator of the program in writing of the allegations and allow 60 days for a response. If an agreement is reached concerning a remedy, then the Secretary shall allow 30 days following that agreement for the remedy to be implemented. If the deficiencies are not corrected within this period, then the Secretary may, upon written notice, suspend any or all of the grant funds until compliance is achieved.

"*§ 143B-272.9. Election to apply for funding.*

A county may elect to apply for funding under this Article by a vote of the board of county commissioners approving the decision to apply, and by appointing a county criminal justice partnership advisory board. Two or more counties, by vote of the board of county commissioners of each county, may agree to create a multicounty board instead of a county board. A multicounty board shall perform the same functions as a county board for each county that participates in establishing the multicounty board. The board or boards of county commissioners shall notify the Secretary of the intent to apply for funds within 60 days of receiving notification of the availability of funds and may request technical assistance to develop the community-based corrections plan.

"*§ 143B-272.10. County Criminal Justice Partnership Advisory Boards; members; terms; chairperson.*

(a) A county board or a multicounty board shall consist of not less than 10 members and shall, to the greatest extent possible, include the following:

(1) A county commissioner. In the case of a multicounty community corrections advisory board, one county commissioner from each participating county shall serve as a member.

(2) A county manager, or the county manager's designee.

(3) A judge of the superior court.

(4) A judge of the district court.

(5) A district attorney, or the district attorney's designee.

(6) A criminal defense attorney.

(7) A public defender.

(8) A county sheriff, or the sheriff's designee.
(9) A chief of a city police department, or the police chief's designee.
(10) A probation officer.
(11) A community service coordinator.
(12) One member selected from each of the following service areas which are available in the county or counties: mental health, public health, substance abuse, employment and training, community-based corrections programs, victim services programs.
(13) A member of the business community.
(14) A member of the community who has been a victim of a crime.
(15) Members at large, including persons who are recovering from chemical dependency or are previous consumers of substance abuse treatment services.

(b) In the case of a single county board, the board of county commissioners shall appoint the members. In the case of a multicounty board, the board of county commissioners from the participating counties shall each appoint one commissioner as a member. These members shall appoint the other members. The board of county commissioners may designate an existing board which meets the requirements of this section to serve as the County Criminal Justice Partnership Advisory Board. A member may be removed, with cause, by the group authorized to make the initial appointment.

(c) Before an appointment is made under this section, the appointing authority shall publish advance notice of the appointments and shall request that the names of persons interested in being considered for appointment be submitted to the appointing authority. In appointing the members of a county board, the county shall make every effort to ensure that minority persons and women are fairly represented.

(d) The initial members of the county board appointed by the board or boards of county commissioners shall serve staggered terms, one-third shall be appointed for a term of one year, one-third shall be appointed for a term of two years, and one-third shall be appointed for a term of three years. Members appointed by virtue of their office serve only while holding the office or position held at the time of appointment. A vacancy occurring before the expiration of the term of office shall be filled in the same manner as original appointments for the remainder of the term. Members may be reappointed without limitation.

(e) The members of the county board shall, within 30 days after the last initial appointment is made, meet and elect one member as

(c) The proposed program shall target adult offenders who either are in confinement awaiting trial, were convicted of a misdemeanor or a felony offense and received a nonincarcerative sentence of an intermediate punishment, or are serving a term of post-release supervision after completing active sentences of imprisonment. The priority populations shall be offenders sentenced to intermediate punishments and offenders who are appropriate for release from jail prior to trial under the supervision of a pretrial monitoring program.

(d) Technical assistance to complete the plan shall be provided either by the Department, or the Department shall grant funds to the county for technical assistance. If a county receives technical assistance funds, the county must provide twenty-five percent (25%) of the grant amount.

"§ *143B-272.13. Application for implementation funding.*

(a) Upon approving the Community-Based Corrections Plan, the board or boards of county commissioners shall submit the plan and an application for implementation funding. The application shall contain the following:

(1) A description of the problem, including specific data and information concerning the population the proposed community-based corrections program is to serve.

(2) A description of the program's goal, objective, activities and how it relates to the annual plan distributed by the State Board.

(3) A description of the operation of the program, including an outline of the approach, implementation steps and phases of the program, its administrative structure, staffing pattern, staff training, financing, degree of community involvement, and offender participation.

(4) A description of the program's monitoring criteria, outlining the documentation and records to be maintained.

(5) A description of the method for evaluating the impact of the program.

(6) The identity of any designated contractor.

(7) In the case of a multicounty community-based corrections plan, provisions for the appointment of a fiscal agent to coordinate the financial activities pertaining to the grant award.

(8) A detailed budget for the program.

(b) The Secretary shall complete the review of the plan within 90 days of submission. Failure to disapprove or recommend amendment to the plan within 90 days shall constitute approval.

"§ *143B-272.14. Fundable programs; community-based corrections programs.*

(a) Fundable programs under this Article shall include community-based corrections programs which are operated under a county community-based corrections plan and funded by the State subsidy provided in this Article. Based on the prioritized populations in G.S. 143B-272.4, the programs may include, but are not limited to, the following:

(1) For offenders who receive intermediate punishments:
   a. Residential facilities;
   b. Day reporting centers;
   c. Restitution centers;
   d. Substance abuse services;
   e. Employment services;

(2) For offenders who are appropriate for release from jail prior to trial:
   a. Pretrial monitoring services;
   b. Pretrial electronic surveillance;

(3) For offenders who are serving a term of post-release supervision after completing active sentences of imprisonment:
   a. Aftercare support services.

(c) When a county receives more than fifty thousand dollars ($50,000) in community-based corrections funds, then that county shall use at least fifty percent (50%) of those funds to develop programs for offenders who receive intermediate punishments.

(b) Community-based corrections funds may be used to operate programs and may also be used to construct, acquire, or renovate community facilities established to provide the programs and services set forth in subsection (a) of this section. Construction and renovation funds may not be used for jails. Construction and renovation funds may not be used to reimburse expenses for any facilities renovated before the effective date of this Article.

"§ *143B-272.15. Funding formula.*

To determine the grant amount for which a county or counties may apply, the granting authority shall apply the following formula:

(a) Twenty percent (20%) of the total fund shall be distributed in the discretion of the Secretary to encourage innovative efforts to develop multicounty projects; to encourage cooperation and collaboration among existing services and avoid duplication of efforts; to encourage the renovation of existing facilities; and to encourage innovative substance abuse programs.

(b) Of the remaining eighty percent (80%) of the fund, a total funding amount will be set for each county based upon the following variables:

chairman and one member as vice-chairman and appoint a secretary-treasurer who need not be a member. For purposes of transacting business, a majority of the membership constitutes a quorum.

(f) The county board shall meet at least quarterly and may also hold special meetings at the call of the Chairman.

(g) Any member who has an interest in a governmental agency or unit or private nonprofit agency which is applying for a State-County Criminal Justice Partnership Act grant or which has received a grant and which is the subject of an inquiry or vote by a grant oversight committee shall publicly disclose that interest on the record and shall take no part in discussion or have any vote in regard to any matter directly affecting that particular grant applicant or grantee. 'Interest' in a grant applicant or grantee shall mean a formal and direct connection to the entity, including, but not limited to, employment, partnership, serving as an elected official, board member, director, officer or trustee, or being an immediate family member of someone who has such a connection to the grant applicant or grantee.

(h) The board or boards of county commissioners shall provide necessary assistance and appropriations to the county board established for that county or counties.

"*§ 143B-272.11. County Criminal Justice Partnership Advisory Boards; powers and duties.*

The County Criminal Justice Partnership Advisory Board shall have the following powers and duties:

(1) To participate in a planning process to develop a Community-Based Corrections Plan. The purpose of this planning process is to:
   a. Examine the local criminal justice system;
   b. Identify problem areas;
   c. Identify offender groups for programs;
   d. Propose strategies for improving the local criminal justice system;
   e. Identify a specific community-based program that is needed;
   f. Plan a method for integrating the needed community-based program into the existing local criminal justice system;
   g. Develop criteria for evaluating the impact of the community-based program; and
   h. Improve coordination at the local level between State and county community-based corrections programs.

(2) To submit the plan to the boards of county commissioners for approval within one year of the last appointment to the

county board. This plan shall include all of the elements required by this section.

(3) To review and revise the plan and make a formal recommendation to the board or boards of county commissioners at least annually concerning the plan and its implementation and operation during the ensuing year.

(4) To monitor and evaluate the impact of the community-based corrections program and prepare a written report.

"§ 143B-272.12. *Community-Based Corrections Plan.*

(a) The Community-Based Corrections Plan shall include the following:

(1) A flowchart of the criminal justice system which describes processing steps from the point of arrest through conviction, to post-release supervision after completing an active sentence of imprisonment. The flowchart shall identify all decision points, decision makers and options;

(2) Number and rate of arrest, convictions, admissions to probation, jail, prison, and post-release supervision;

(3) Arrest practices and data, including the use of citations;

(4) Pretrial release practices and data on type of release and bond amounts;

(5) Procedures for assignment of indigent counsel;

(6) Court procedures for reducing bond amounts;

(7) Jail capacity and population data by type of offender;

(8) The jail population by type of offender, type of offenses, and average length of stay;

(9) Existing State and county community-based corrections programs (pretrial, sentenced, and post-release) including target population, program activities, profile of offenders entering and released from the programs, length of stay, and completion rates;

(10) Education, vocation/employment, health, mental health, housing, and other social services which are available to offenders; and

(11) Number of offenders who received an active sentence in the past two years, including type of offense, length of sentence, and actual time served.

(b) Based on the information collected in subsection (a) of this section, the plan shall include a detailed description of the need for the proposed community-based corrections program, the offender population the proposed program will target, the changes that are planned in local policies and procedures to accommodate the proposed program, and how the proposed program will be integrated into the criminal justice system.

(1) Twenty percent (20%) based on a fixed equal dollar amount for each county;

(2) Sixty percent (60%) based on the county share of the State population; and

(3) Twenty percent (20%) based on the supervised probation admissions rate for the county.

The sum of the amounts in subdivisions (1), (2), and (3) is the total amount of the funding that a county may apply for under this subsection.

"§ *143B-272.16. Continued eligibility.*

(a) To continue to receive funding under this Article, a county shall submit an updated application for implementation funding to the Secretary at the beginning of each fiscal year.

(b) To remain eligible for funding, a county shall:

(1) Comply with its community-based corrections plan;

(2) Submit monitoring reports as required by the Department; and

(3) Comply with the minimum standards adopted.

(c) If the Secretary suspends any or all of the grant funds, the county may request a hearing in accordance with Chapter 150B of the General Statutes.

"§ *143B-272.17. Termination of participation in program.*

A county receiving financial aid under this Article may terminate its participation by delivering a resolution of the board or boards of county commissioners to the Secretary at the beginning of any calendar quarter. Upon withdrawal from the program, the board or boards of county commissioners may adopt a resolution stating that it is in the best interests of the county that the county community corrections advisory board be dissolved, whereupon the county commissioners shall pay and discharge any debts or liabilities of the advisory board, collect and distribute assets of the advisory board under the laws of North Carolina, and pay over any remaining proceeds or property to the proper fund.

"§ *143B-272.18. Private nonprofit agencies participating in program.*

After the county criminal justice partnership advisory board has developed a plan and the board or boards of county commissioners has reviewed it, if the county decides that it does not intend to operate the proposed program, the county criminal justice partnership advisory board shall recommend the appropriate deliverer of services and the county may contract for services.

"§ *143B-272.19. Prohibited uses of funds.*

(a) Counties may not use funds received under this Article to supplant or replace existing funds or other resources from the federal,

State, or county government for existing community-based corrections programs.

(b) Counties may not use funds received under this Article for indirect costs associated with a program."

Sec. 2. This act becomes effective January 1, 1994. Grants administered under this act shall become effective July 1, 1995. The Department of Correction may use funds available to support the administration of the State-County Criminal Justice Partnership program effective January 1, 1994.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 1035 **CHAPTER 535**

AN ACT TO AUTHORIZE THE SENTENCING AND POLICY ADVISORY COMMISSION TO STUDY RESTITUTION POLICY AS A PART OF NORTH CAROLINA'S CRIMINAL JUSTICE SYSTEM AND TO EXPAND THE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Sentencing and Policy Advisory Commission is directed to study restitution policy and its place as a part of North Carolina's criminal justice system.

Sec. 2. As a part of its study, the Commission may consider any restitution issue addressed in House Bill 1035, as introduced in the 1993 Session of the 1993 General Assembly. Among the restitution issues addressed in House Bill 1035 are: community restitution, individual restitution, and community restitution fees.

Sec. 3. The Commission shall make a report of its findings and recommendations, including any recommended legislation, to the 1994 Regular Session of the 1993 General Assembly.

Sec. 4. G.S. 164-37 reads as rewritten:

"*§ 164-37. Membership; chairman; meetings; quorum.*

The Commission shall consist of ~~27~~ 28 members as follows:

(1) The Chief Justice of the North Carolina Supreme Court shall appoint a sitting or former Justice or judge of the General Court of Justice, who shall serve as Chairman of the Commission;

(2) The Chief Judge of the North Carolina Court of Appeals, or another judge on the Court of Appeals, serving as his designee;

(3) The Secretary of Correction or his designee;

(4) The Secretary of Crime Control and Public Safety or his designee;

(5) The Chairman of the Parole Commission, or his designee;
(6) The President of the Conference of Superior Court Judges or his designee;
(7) The President of the District Court Judges Association or his designee;
(8) The President of the North Carolina Sheriff's Association or his designee;
(9) The President of the North Carolina Association of Chiefs of Police or his designee;
(10) One member of the public at large, who is not currently licensed to practice law in North Carolina, to be appointed by the Governor;
(11) One member to be appointed by the Lieutenant Governor;
(12) Three members of the House of Representatives, to be appointed by the Speaker of the House;
(13) Three members of the Senate, to be appointed by the President Pro Tempore of the Senate;
(14) The President Pro Tempore of the Senate shall appoint the representative of the North Carolina Community Sentencing Association that is recommended by the President of that organization;
(15) The Speaker of the House of Representatives shall appoint the member of the business community that is recommended by the President of the North Carolina Retail Merchants Association;
(16) The Chief Justice of the North Carolina Supreme Court shall appoint the criminal defense attorney that is recommended by the President of the North Carolina Academy of Trial Lawyers;
(17) The President of the Conference of District Attorneys or his designee;
(18) The Lieutenant Governor shall appoint the member of the North Carolina Victim Assistance Network that is recommended by the President of that organization;
(19) A rehabilitated former prison inmate, to be appointed by the Chairman of the Commission;
(20) The President of the North Carolina Association of County Commissioners or his designee;
(21) The Governor shall appoint the member of the academic community, with a background in criminal justice or corrections policy, that is recommended by the President of The University of North Carolina;
(22) The Attorney General, or a member of his staff, to be appointed by the Attorney General;

(23) The Governor shall appoint the member of the North Carolina Bar Association that is recommended by the President of that organization.

(24) A member of the Justice Fellowship Task Force, who is a resident of North Carolina, to be appointed by the Chairman of the Commission.

The Commission shall have its initial meeting no later than September 1, 1990, at the call of the Chairman. The Commission shall meet a minimum of four regular meetings each year. The Commission may also hold special meetings at the call of the Chairman, or by any four members of the Commission, upon such notice and in such manner as may be fixed by the rules of the Commission. A majority of the members of the Commission shall constitute a quorum."

Sec. 5. This act becomes effective July 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 1109 **CHAPTER 536**

AN ACT TO AUTHORIZE COUNTIES AND CITIES TO ENGAGE IN ADDITIONAL LOCAL ECONOMIC DEVELOPMENT ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-7.1 reads as rewritten:

"§ *158-7.1. Local development.*

(a) Each county and city in this State is authorized to make appropriations for the purposes of aiding and encouraging the location of manufacturing enterprises, making industrial surveys and locating industrial and commercial plants in or near such city or in the county; encouraging the building of railroads or other purposes which, in the discretion of the governing body of the city or of the county commissioners of the county, will increase the population, taxable property, agricultural industries and business prospects of any city or county. These appropriations may be funded by the levy of property taxes pursuant to G.S. 153A-149 and 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

(b) A county or city may undertake the following specific economic development activities. (This listing is not intended to limit by implication or otherwise the grant of authority set out in subsection (a) of this section). The activities listed in this subsection ~~(b)~~ may be funded by the levy of property taxes pursuant to G.S. 153A-149 and

G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

(1) A county or city may acquire and develop land for an industrial park, to be used for manufacturing, assembly, fabrication, processing, warehousing, research and development, office use, or similar industrial or commercial purposes. A county may acquire land anywhere in the county, including inside of cities, for an industrial park, while a city may acquire land anywhere in the county or counties in which it is located. A county or city may develop the land by installing utilities, drainage facilities, street and transportation facilities, street lighting, and similar facilities; may demolish or rehabilitate existing structures; and may prepare the site for industrial or commercial uses. A county or city may convey property located in an industrial park pursuant to subsection (d) of this section.

(2) A county or city may acquire, assemble, and hold for resale property that is suitable for industrial or commercial use. A county may acquire such property anywhere in the county, including inside of cities, while a city may acquire such property inside the city or, if the property will be used by a business that will provide jobs to city residents, anywhere in the county or counties in which it is located. A county or city may convey property acquired or assembled ~~pursuant to this paragraph~~ under this subdivision pursuant to subsection (d) of this section.

(3) A county or city may acquire options for the acquisition of property that is suitable for industrial or commercial use. The county or city may assign such an option, following such procedures, for such consideration, and subject to such terms and conditions as the county or city deems desirable.

(4) A county or city may acquire or construct one or more 'shell buildings', which are structures of flexible design adaptable for use by a variety of industrial or commercial businesses. A county or city may convey or lease a shell building or space in a shell building pursuant to subsection (c) of this section.

(5) A county or city may construct, extend or own utility facilities or may provide for or assist in the extension of utility services to be furnished to an industrial facility, whether the utility is publicly or privately owned.

(6) A county or city may extend or may provide for or assist in the extension of water and sewer lines to industrial

properties or facilities, whether the industrial property or facility is publicly or privately owned.

(7) A county or city may engage in site preparation for industrial properties or facilities, whether the industrial property or facility is publicly or privately owned.

(c) Any appropriation or expenditure pursuant to subsection (b) of this section must be approved by the county or city governing body after a public hearing. The county or city shall publish notice of the public hearing at least 10 days before the hearing is held. ~~The~~ If the appropriation or expenditure is for the acquisition of an interest in real property, the notice shall describe the interest to be acquired, the proposed acquisition cost of such interest, the governing body's intention to approve the acquisition, the source of funding for the acquisition and such other information needed to reasonably describe the acquisition. If the appropriation or expenditure is for the improvement of privately owned property by site preparation or by the extension of water and sewer lines to the property, the notice shall describe the improvements to be made, the proposed cost of making the improvements, the source of funding for the improvements, the public benefit to be derived from making the improvements, and any other information needed to reasonably describe the improvements and their purpose.

(d) A county or city may lease or convey interests in real property held or acquired pursuant to subsection (b) of this section in accordance with the procedures of this ~~subsection (d).~~ subsection. A county or city may convey or lease interests in property by private negotiation and may subject the property to such covenants, conditions, and restrictions as the county or city deems to be in the public interest or necessary to carry out the purposes of this section. Any such conveyance or lease must be approved by the county or city governing body, after a public hearing. The county or city shall publish notice of the public hearing at least 10 days before the hearing is held; the notice shall describe the interest to be conveyed or leased, the value of the interest, the proposed consideration for the conveyance or lease, and the governing body's intention to approve the conveyance or lease. Before such an interest may be conveyed, the county or city governing body shall determine the probable average hourly wage to be paid to workers by the business to be located at the property to be conveyed and the fair market value of the interest, subject to whatever covenants, conditions, and restrictions the county or city proposes to subject it ~~to; the~~ to. The consideration for the conveyance may not be less than the value so determined.

~~(d1) In arriving at the amount of consideration that it receives, the Board may take into account prospective tax revenues from~~

~~improvements to be constructed on the property, prospective sales tax revenues to be generated in the area, as well as any other prospective tax revenues or income coming to the county or city over the next 10 years as a result of the conveyance or lease provided the following conditions are met:~~

~~(1) The governing board of the county or city shall determine that the conveyance of the property will stimulate the local economy, promote business, and result in the creation of a substantial number of jobs in the county or city.~~

~~(2) The governing board of the county or city shall contractually bind the purchaser of the property to construct improvements on the property within a specified period of time, not to exceed 10 years, which improvements are sufficient to generate the tax revenue taken into account in arriving at the consideration. Upon failure to construct the improvements specified in the contract, the purchaser shall reconvey the property back to the county or city.~~

~~This subsection applies to the Cities of Concord, Conover, Kannapolis, Mooresville, Mount Airy, St. Pauls, Selma, Smithfield, Statesville, Troutman, and Winston-Salem, and the Counties of Ashe, Cabarrus, Forsyth, Franklin, Iredell, and Johnston.~~

(d2) In arriving at the amount of consideration that it receives, the Board may take into account prospective tax revenues from improvements to be constructed on the property, prospective sales tax revenues to be generated in the area, as well as any other prospective tax revenues or income coming to the county or city over the next 10 years as a result of the conveyance or lease provided the following conditions are met:

(1) The governing board of the county or city shall determine that the conveyance of the property will stimulate the local economy, promote business, and result in the creation of a substantial number of jobs in the county or city that pay at or above the median average wage in the county or, for a city, in the county where the city is located. A city that spans more than one county is considered to be located in the county where the greatest population of the city resides. For the purpose of this subdivision, the median average wage in a county is the median average wage for all insured industries in the county as computed by the Employment Security Commission for the most recent period for which data is available.

(2) The governing board of the county or city shall contractually bind the purchaser of the property to construct, within a specified period of time not to exceed five years,

improvements on the property that will generate the tax revenue taken into account in arriving at the consideration. Upon failure to construct the improvements specified in the contract, the purchaser shall reconvey the property back to the county or city.

(e) All appropriations and expenditures pursuant to subsections (b) and (c) of this section shall be subject to the provisions of the Local Government Budget and Fiscal Control Acts of the North Carolina General Statutes, respectively, for cities and ~~counties.~~ counties and shall be listed in the annual financial report the county or city submits to the Local Government Commission. The budget format for each such governing body shall make such disclosures in such detail as the Local Government Commission may by rule and regulation direct.

(f) ~~All appropriations and expenditures pursuant to subsections (b) and (c) of this section shall be subject to the following limitations: No county or city shall have an aggregate investment outstanding at any one time which exceeds~~ At the end of each fiscal year, the total of the following for each county and city may not exceed one-half of one percent (0.5%) of the outstanding assessed property tax valuation for the ~~governing body~~ county or city as of January 1 ~~of each year, beginning January 1, 1986,~~ preceding the beginning of the fiscal year:

(1) The investment in property acquired at any time under subdivisions (b)(1) through (b)(4) of this section and owned at the end of the fiscal year.

(2) The amount expended during the fiscal year under subdivisions (b)(5) and (b)(7) of this section.

(3) The amount of tax revenue that was taken into account under subsection (d2) of this section and was expected to be received during the fiscal year.

The Local Government Commission shall review the annual financial reports filed by counties and cities to determine if any county or city has exceeded the limit set by this subsection. If the Commission finds that a county or city has exceeded this limit, it shall notify the county or city. A county or city that receives a notice from the Commission under this subsection must submit to the Commission for its review and approval any appropriation or expenditure the county or city proposes to make under this section during the next three fiscal years. The Commission shall not approve an appropriation or expenditure that would cause a county or city to exceed the limit set by this subsection.

(g) Repealed by Session Laws 1989, c. 374, s. 1, effective June 21, 1989."

Sec. 2. The following acts are repealed: Chapter 673 of the 1987 Session Laws, Chapter 496 of the 1991 Session Laws, Chapter

1006 of the 1991 Session Laws, and Chapter 25 of the 1993 Session Laws.

Sec. 3. The following acts are repealed: Chapter 266 of the 1989 Session Laws, Chapter 913 of the 1989 Session Laws (Reg. Sess. 1990), and Chapter 7 of the 1991 Session Laws.

Sec. 4. G.S. 158-7.1(d1) is repealed.

Sec. 5. The provisions of this act are severable. If any provision of this act is declared invalid by a court, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application.

Sec. 6. This act becomes effective January 1, 1994. This act does not affect appropriations or expenditures that are made by a county or city after the effective date of this act and were agreed to in writing by the county or city before the effective date of this act as part of an economic development project.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 230 **CHAPTER 537**

AN ACT RECOMMENDED BY THE JUVENILE LAW STUDY COMMISSION TO ENSURE THE GUARDIAN AD LITEM'S STANDING TO REPRESENT THE JUVENILE AND TO MAKE OTHER CHANGES RELATED TO PROCEEDINGS UNDER THE JUVENILE CODE INVOLVING GUARDIANS AD LITEM.

The General Assembly of North Carolina enacts:

Sec. 1. G.S. 7A-586 reads as rewritten:

"§ *7A-586. Appointment and duties of guardian ad litem.*

(a) When in a petition a juvenile is alleged to be abused or neglected, the judge shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to be dependent, the judge may appoint a guardian *ad litem* to represent the juvenile. The guardian *ad litem* and attorney advocate have standing to represent the juvenile in all actions under this Subchapter where they have been appointed. The appointment shall be made pursuant to the program established by Article 39 of this Chapter unless representation is otherwise provided pursuant to G.S. 7A-491 or G.S. 7A-492. In every case where a nonattorney is appointed as a guardian *ad litem*, an attorney shall be appointed in the case in order to assure protection of the child's legal rights within the proceeding. The duties of the guardian *ad litem* shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of

disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the judge at the dispositional hearing; and to protect and promote the best interest of the juvenile until formally relieved of the responsibility by the judge.

(b) The judge may order the Department of Social Services or the guardian *ad litem* to conduct follow-up investigations to insure that the orders of the court are being properly executed and to report to the court when the needs of the juvenile are not being met. The judge may also authorize the guardian *ad litem* to accompany the juvenile to court in any criminal action wherein he may be called on to testify in a matter relating to abuse.

(c) The judge may grant the guardian *ad litem* the authority to demand any information or reports whether or not confidential, that may in the guardian *ad litem*'s opinion be relevant to the case. Neither the physician-patient privilege nor the husband-wife privilege may be invoked to prevent the guardian *ad litem* and the court from obtaining such information. The confidentiality of the information or reports shall be respected by the guardian *ad litem* and no disclosure of any information or reports shall be made to anyone except by order of the judge, or unless otherwise provided by law in Chapter 7A."

Sec. 2. G.S. 7A-659(f) reads as rewritten:

"(f) The process of selection of specific adoptive parents shall be the responsibility of and within the discretion of the county department of social services or licensed child-placing agency. The guardian ad litem may request information from and consult with the county department or child-placing agency concerning the selection process. If the guardian *ad litem* requests information about the selection process, the county shall provide the information within five days. Any issue of abuse of discretion by the county department or child-placing agency in the selection process must be raised by the guardian ad litem within 10 days following the date the agency notifies the court and the guardian ad litem in writing of the filing of the adoption petition."

Sec. 3. G.S. 7A-661 reads as rewritten:

"*§ 7A-661. Review of voluntary foster care placements.*

(a) The court shall review the placement of any juvenile in foster care made pursuant to a voluntary agreement between the juvenile's parents or guardian and a county department of social services and shall make findings from evidence presented at a review hearing with regard to:

(1) The voluntariness of the placement;

(2) The appropriateness of the placement;

(3) Whether the placement is in the best interests of the juvenile; and

(4) The services that have been or should be provided to the parents, guardian, foster parents, and juvenile, as the case may be, either (i) to improve the placement or (ii) to eliminate the need for the placement.

(b) The court may approve the continued placement of the juvenile in foster care on a voluntary agreement basis, disapprove the continuation of the voluntary placement, or direct the department of social services to petition the court for legal custody if the placement is to continue.

(c) An initial review hearing shall be held not more than 180 days after the juvenile's placement and shall be calendared by the clerk for hearing within such period upon timely request by the director of social services. Additional review hearings shall be held at such times as the court shall deem appropriate and shall direct, either upon its own motion or upon written request of the parents, guardian, foster parents or director of social services. A child placed under a voluntary agreement between the juvenile's parent or guardian and the county department of social services shall not remain in placement more than 12 months without the filing of a petition alleging abuse, neglect, or dependency.

(d) The clerk shall give at least 15 days advance written notice of the initial and subsequent review hearings to the parents or guardian of the juvenile, to the juvenile if 12 or more years of age, to the director of social services, and to any other persons whom the court may specify."

Sec. 4. G.S. 7A-660(b) reads as rewritten:

"(b) In any case where an adoption is dismissed or withdrawn and the child returns to foster care with a department of social services or a licensed private child-placing agency, then the department of social services or licensed child-placing agency shall notify the clerk within ~~six months~~ 30 days from the date the child returns to care to calendar the case for review of the agency's plan for the child at a session of court scheduled for the hearing of juvenile matters."

Sec. 5. This act becomes effective January 1, 1994, and applies to petitions filed and requests for information made on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 277 **CHAPTER 538**

AN ACT TO PROVIDE FOR STRUCTURED SENTENCING IN NORTH CAROLINA CONSISTENT WITH THE STANDARD OPERATING CAPACITY OF THE DEPARTMENT OF

CORRECTION AND LOCAL CONFINEMENT FACILITIES AND TO REDEFINE STATE AND COUNTY RESPONSIBILITIES FOR THE CONFINEMENT OF MISDEMEANANTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended by adding a new Article 81B to read:

"ARTICLE 81B.

"Structured Sentencing of Persons Convicted of Crimes.

"Part 1. General Provisions.

"*§ 15A-1340.10. Applicability of structured sentencing.*

This Article applies to criminal offenses in North Carolina, other than impaired driving under G.S. 20-138.1, that occur on or after January 1, 1995.

"*§ 15A-1340.11. Definitions.*

The following definitions apply in this Article:

(1) Active punishment. -- A sentence in a criminal case that requires an offender to serve a sentence of imprisonment and is not suspended. Special probation, as defined in G.S. 15A-1351, is not an active punishment.

(2) Community punishment. -- A sentence in a criminal case that does not include an active punishment or an intermediate punishment.

(3) Day-reporting center. -- A facility to which offenders are required, as a condition of probation, to report on a daily or other regular basis at specified times for a specified length of time to participate in activities such as counseling, treatment, social skills training, or employment training.

(4) Electronic monitoring. -- A condition of probation in which the offender is required to remain in one or more specified places for a specified period or periods each day, and in which the offender shall wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically.

(5) Intensive probation. -- Probation that requires the offender to submit to supervision by officers assigned to the Intensive Probation Program established pursuant to G.S. 143B-262(c), and to comply with the rules adopted for that Program.

(6) Intermediate punishment. -- A sentence in a criminal case that places an offender on supervised probation and includes at least one of the following conditions:

a. Special probation as defined in G.S. 15A-1351(a).

b. Assignment to a residential program.
c. Electronic monitoring.
d. Intensive probation.
e. Assignment to a day-reporting center.

In addition, a sentence to regular supervised probation imposed pursuant to a community penalties plan as defined in G.S. 7A-771(2) is an intermediate punishment, regardless of whether any of the above conditions is imposed, if the plan is accepted by the court and the plan does not include active punishment.

(7) Prior conviction. -- A person has a prior conviction when, on the date a criminal judgment is entered, the person being sentenced has been previously convicted of a crime:
a. In the district court, and the person has not given notice of appeal and the time for appeal has expired; or
b. In the superior court, regardless of whether the conviction is on appeal to the appellate division; or
c. In the courts of the United States, another state, the armed services of the United States, or another county, regardless of whether the offense would be a crime if it occurred in North Carolina.

regardless of whether the crime was committed before or after the effective date of this Article.

(8) Residential program. -- A program in which the offender, as a condition of probation, is required to reside in a facility for a specified period and to participate in activities such as counseling, treatment, social skills training, or employment training, conducted at the residential facility or at other specified locations.

"*§ 15A-1340.12. Purposes of sentencing.*

The primary purposes of sentencing a person convicted of a crime are to impose a punishment commensurate with the injury the offense has caused, taking into account factors that may diminish or increase the offender's culpability; to protect the public by restraining offenders; to assist the offender toward rehabilitation and restoration to the community as a lawful citizen; and to provide a general deterrent to criminal behavior.

"Part 2. Felony Sentencing.

"*§ 15A-1340.13. Procedure and incidents of sentence of imprisonment for felonies.*

(a) Application to Felonies Only. -- This Part applies to sentences imposed for felony convictions.

(b) Procedure Generally; Requirements of Judgment; Kinds of Sentences. -- Before imposing a sentence, the court shall determine

the prior record level for the offender pursuant to G.S. 15A-1340.14. The sentence shall contain a sentence disposition specified for the class of offense and prior record level, and its minimum term of imprisonment shall be within the range specified for the class of offense and prior record level, unless applicable statutes require or authorize another minimum sentence of imprisonment. The kinds of sentence dispositions are active punishment, intermediate punishment, and community punishment.

(c) Minimum and Maximum Term. -- The judgment of the court shall contain a minimum term of imprisonment that is consistent with the class of offense for which the sentence is being imposed and with the prior record level for the offender. The maximum term of imprisonment applicable to each minimum term of imprisonment is, unless otherwise provided, as specified in G.S. 1340.17. The maximum term shall be specified in the judgment of the court.

(d) Service of Minimum Required; Earned Time Authorization. -- An offender sentenced to an active punishment shall serve the minimum term imposed. The maximum term may be reduced to, but not below, the minimum term by earned time credits awarded to an offender by the Department of Correction or the custodian of the local confinement facility, pursuant to rules adopted in accordance with law.

(e) Deviation from Sentence Ranges for Aggravation and Mitigation; No Sentence Dispositional Deviation Allowed. -- The court may deviate from the presumptive range of minimum sentences of imprisonment specified for a class of offense and prior record level if it finds, pursuant to G.S. 15A-1340.16, that aggravating or mitigating circumstances support such a deviation. The amount of the deviation is in the court's discretion, subject to the limits specified in the class of offense and prior record level for mitigated and aggravated punishment. Deviations for aggravated or mitigated punishment are allowed only in the ranges of minimum and maximum sentences of imprisonment, and not in the sentence dispositions specified for the class of offense and prior record level, unless a statute specifically authorizes a sentence dispositional deviation.

(f) Suspension of Sentence. -- Unless otherwise provided, the court shall not suspend the sentence of imprisonment if the class of offense and prior record level does not permit community or intermediate punishment as a sentence disposition. The court shall suspend the sentence of imprisonment if the class of offense and prior record level requires community or intermediate punishment as a sentence disposition. The court may suspend the sentence of imprisonment if the class of offense and prior record level authorizes, but does not require, active punishment as a sentence disposition.

(g) Dispositional Deviation for Extraordinary Mitigation. -- Except as provided in subsection (g1) of this section, the court may impose an intermediate punishment for a class of offense and prior record level that requires the imposition of an active punishment if it finds in writing all of the following:

(1) That extraordinary mitigating factors of a kind significantly greater than in the normal case are present.

(2) Those factors substantially outweigh any factors in aggravation.

(3) It would be a manifest injustice to impose an active punishment in the case.

The court shall consider evidence of extraordinary mitigating factors, but the decision to find any such factors, or to impose an intermediate punishment is in the discretion of the court. The extraordinary mitigating factors which the court finds shall be specified in its judgment.

(g1) Exceptions When Extraordinary Mitigation Shall Not Be Used. -- The court shall not impose an intermediate sanction pursuant to subsection (g) of this section if:

(1) The offense is a Class A offense;

(2) The offense is a drug trafficking offense under G.S. 90-95(h); or

(3) The defendant has five or more points as determined by G.S. 15A-1340.14.

"*§ 15A-1340.14. Prior record level for felony sentencing.*

(a) Generally. -- The prior record level of a felony offender is determined by calculating the sum of the points assigned to each of the offender's prior convictions that the court finds to have been proved in accordance with this section.

(b) Points. -- Points are assigned as follows:

(1) For each prior felony Class A conviction, 10 points.

(2) For each prior felony Class B, C, or D conviction, 6 points.

(3) For each prior felony Class E, F, or G conviction, 4 points.

(4) For each prior felony Class H or I conviction, 2 points.

(5) For each prior misdemeanor conviction, 1 point.

(6) If all the elements of the present offense are included in the prior offense, 1 point.

(7) If the offense was committed while the offender was on probation or parole, or while the offender was serving a sentence of imprisonment, or while the offender was on escape from a correctional institution while serving a sentence of imprisonment, 1 point.

(c) Prior Record Levels for Felony Sentencing. -- The prior record levels for felony sentencing are:

(1) Level I -- 0 points.
(2) Level II -- At least 1, but not more than 4 points.
(3) Level III -- At least 5, but not more than 8 points.
(4) Level IV -- At least 9, but not more than 14 points.
(5) Level V -- At least 15, but not more than 18 points.
(6) Level VI -- At least 19 points.

In determining the prior record level, the classification of a prior offense is the classification assigned to that offense at the time the offense for which the offender is being sentenced is committed.

(d) Multiple Prior Convictions Obtained in One Court Week. -- For purposes of determining the prior record level, if an offender is convicted of more than one offense in a single court during one calendar week, only the conviction for the offense with the highest point total is used.

(e) Classification of Prior Convictions From Other Jurisdictions. -- Except as otherwise provided in this subsection, a conviction occurring in a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, or is classified as a misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the offender proves by the preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor in North Carolina, the conviction is treated as a misdemeanor for assigning prior record level points. If the State proves by the preponderance of the evidence that an offense is substantially similar to an offense in North Carolina classified higher than a Class I felony, the conviction is treated as the higher class of felony for assigning prior record level points.

(f) Proof of Prior Convictions. -- A prior conviction shall be proved by any of the following methods:

(1) Stipulation of the parties.
(2) An original or copy of the court record of the prior conviction.
(3) A copy of records maintained by the Division of Criminal Information, the Division of Motor Vehicles, or of the Administrative Office of the Courts.
(4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior conviction exists and that the offender before the court is the same person as the offender named in the prior conviction. The original or a copy of the court records or a copy of the records maintained by the Division of Criminal Information, the Division of Motor Vehicles, or of the Administrative Office of the

Courts, bearing the same name as that by which the offender is charged, is *prima facie* evidence that the offender named is the same person as the offender before the court, and that the facts set out in the record are true. For purposes of this subsection, 'a copy' includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to the court the offender's full record. Evidence presented by either party at trial may be utilized to prove prior convictions. Suppression of prior convictions is pursuant to G.S. 15A-980. If a motion is made pursuant to that section during the sentencing stage of the criminal action, either the State or the offender is entitled to a continuance of the sentencing hearing. If asked by the defendant in compliance with G.S. 15A-903, the prosecutor shall furnish the defendant's prior criminal record to the defendant within a reasonable time sufficient to allow the defendant to determine if the record available to the prosecutor is accurate.

"§ *15A-1340.15. Multiple convictions.*

(a) Consecutive Sentences. -- This Article does not prohibit the imposition of consecutive sentences. Unless otherwise specified by the court, all sentences of imprisonment run concurrently with any other sentences of imprisonment.

(b) Consolidation of Sentences. -- If an offender is convicted of more than one offense at the same time, the court may consolidate the offenses for judgment and impose a single judgment for the consolidated offenses. The judgment shall contain a sentence disposition specified for the class of offense and prior record level of the most serious offense, and its minimum sentence of imprisonment shall be within the ranges specified for that class of offense and prior record level, unless applicable statutes require or authorize another minimum sentence of imprisonment.

"§ *15A-1340.16. Aggravated and mitigated sentences.*

(a) Generally, Burden of Proof. -- The court shall consider evidence of aggravating or mitigating factors present in the offense that make an aggravated or mitigated sentence appropriate, but the decision to depart from the presumptive range is in the discretion of the court. The State bears the burden of proving by a preponderance of the evidence that an aggravating factor exists, and the offender bears the burden of proving by a preponderance of the evidence that a mitigating factor exists.

(b) When Aggravated or Mitigated Sentence Allowed. -- If the court finds that aggravating or mitigating factors exist, it may depart from the presumptive range of sentences specified in G.S. 15A-

1340.17(c)(2). If the court finds that aggravating factors are present and are sufficient to outweigh any mitigating factors that are present, it may impose a sentence that is permitted by the aggravated range described in G.S. 15A-1340.17(c)(4). If the court finds that mitigating factors are present and are sufficient to outweigh any aggravating factors that are present, it may impose a sentence that is permitted by the mitigated range described in G.S. 15A-1340.17(c)(3).

(c) Written Findings; When Required. -- The court shall make findings of the aggravating and mitigating factors present in the offense only if, in its discretion, it departs from the presumptive range of sentences specified in G.S. 15A-1340.17(c)(2). Findings shall be in writing. The requirement to make findings in order to depart from the presumptive range applies regardless of whether the sentence of imprisonment is activated or suspended.

(d) Aggravating Factors. -- The following are aggravating factors:

(1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.

(2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

(3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(4) The defendant was hired or paid to commit the offense.

(5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(6) The offense was committed against a present or former: law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.

(7) The offense was especially heinous, atrocious, or cruel.

(8) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.

(9) The defendant held public office at the time of the offense and the offense related to the conduct of the office.

(10) The defendant was armed with or used a deadly weapon at the time of the crime.

(11) The victim was very young, or very old, or mentally or physically infirm, or handicapped.

(12) The defendant committed the offense while on pretrial release on another charge.

(13) The defendant involved a person under the age of 16 in the commission of the crime.

(14) The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.

(15) The defendant took advantage of a position of trust or confidence to commit the offense.

(16) The offense involved the sale or delivery of a controlled substance to a minor.

(17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.

(18) The defendant does not support the defendant's family.

(19) The serious injury inflicted upon the victim is permanent and debilitating.

(20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial.

(e) Mitigating Factors. -- The following are mitigating factors:

(1) The defendant committed the offense under duress, coercion, threat, or compulsion that was insufficient to constitute a defense but significantly reduced the defendant's culpability.

(2) The defendant was a passive participant or played a minor role in the commission of the offense.

(3) The defendant was suffering from a mental or physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.

(4) The defendant's age, immaturity, or limited mental capacity at the time of commission of the offense significantly reduced the defendant's culpability for the offense.

(5) The defendant has made substantial or full restitution to the victim.

(6) The victim was more than 16 years of age and was a voluntary participant in the defendant's conduct or consented to it.

(7) The defendant aided in the apprehension of another felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.

(8) The defendant acted under strong provocation, or the relationship between the defendant and the victim was otherwise extenuating.

(9) The defendant could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear, or the defendant exercised caution to avoid such consequences.

(10) The defendant reasonably believed that the defendant's conduct was legal.

(11) Prior to arrest or at an early stage of the criminal process, the defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer.

(12) The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.

(13) The defendant is a minor and has reliable supervision available.

(14) The defendant has been honorably discharged from the United States armed services.

(15) The defendant has accepted responsibility for the defendant's criminal conduct.

(16) The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.

(17) The defendant supports the defendant's family.

(18) The defendant has a support system in the community.

(19) The defendant has a positive employment history or is gainfully employed.

(20) The defendant has a good treatment prognosis, and a workable treatment plan is available.

(21) Any other mitigating factor reasonably related to the purposes of sentences.

"*§ 15A-1340.17. Punishment limits for each class of offense and prior record level.*

(a) Offense Classification; Default Classifications. -- The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a felony for which there is no classification, it is a Class I felony.

(b) Fines. -- Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.

(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. -- The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: 'C' indicates that a community punishment is authorized; 'I' indicates that an intermediate punishment is authorized; and 'A' indicates that an active punishment is authorized.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	Life Imprisonment or Death as Established by Statute						
B	A 135-169 108-135 81-108	A 163-204 130-163 98-130	A 190-238 152-190 114-152	A 216-270 173-216 130-173	A 243-304 194-243 146-194	A 270-338 216-270 162-216	DISPOSITION Aggravated PRESUMPTIVE Mitigated
C	A 63-79 50-63 38-50	A 86-108 69-86 52-69	A 100-125 80-100 60-80	A 115-144 92-115 69-92	A 130-162 104-130 78-104	A 145-181 116-145 87-116	DISPOSITION Aggravated PRESUMPTIVE Mitigated
D	A 55-69 44-55 33-44	A 66-82 53-66 40-53	A 89-111 71-89 53-71	A 101-126 81-101 61-81	A 115-144 92-115 69-92	A 126-158 101-126 76-101	DISPOSITION Aggravated PRESUMPTIVE Mitigated
E	I/A 25-31 20-25 15-20	I/A 29-36 23-29 17-23	A 34-42 27-34 20-27	A 46-58 37-46 28-37	A 53-66 42-53 32-42	A 59-74 47-59 35-47	DISPOSITION Aggravated PRESUMPTIVE Mitigated
F	I/A 16-20 13-16 10-13	I/A 19-24 15-19 11-15	I/A 21-26 17-21 13-17	A 25-31 20-25 15-20	A 34-42 27-34 20-27	A 39-49 31-39 23-31	DISPOSITION Aggravated PRESUMPTIVE Mitigated
G	I/A 13-16 10-13 8-10	I/A 15-19 12-15 9-12	I/A 16-20 13-16 10-13	I/A 20-25 16-20 12-16	A 21-26 17-21 13-17	A 29-36 23-29 17-23	DISPOSITION Aggravated PRESUMPTIVE Mitigated
H	C/I 6-8 5-6 4-5	I 8-10 6-8 4-6	I/A 10-12 8-10 6-8	I/A 11-14 9-11 7-9	I/A 15-19 12-15 9-12	A 20-25 16-20 12-16	DISPOSITION Aggravated PRESUMPTIVE Mitigated
I	C 6-8 4-6 3-4	C/I 6-8 4-6 3-4	I 6-8 5-6 4-5	I/A 8-10 6-8 4-6	I/A 9-11 7-9 5-7	I/A 10-12 8-10 6-8	DISPOSITION Aggravated PRESUMPTIVE Mitigated

(d) Maximum Sentences Specified for Class F through Class I Felonies. -- Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F

through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

4-5	5-6	6-8	7-9	8-10	9-11	10-12	11-14
12-15	13-16	14-17	15-18	16-20	17-21	18-22	19-23
20-24	21-26	22-27	23-28	24-29	25-30	26-32	27-33
28-34	29-35	30-36	31-38	32-39	33-40	34-41	35-42
36-44	37-45	38-46	39-47	40-48	41-50	42-51	43-52
44-53	45-54	46-56	47-57	48-58	49-59		

(e) Maximum Sentences Specified for Class B through Class E Felonies. -- Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353

287-354	288-355	289-356	290-357	291-359	292-360	293-361	2957362
295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
335-411	336-413	337-414	338-415	339-416			

"Part 3. Misdemeanor Sentencing.

"§ *15A-1340.20. Procedure and incidents of sentence of imprisonment for misdemeanors.*

(a) Application to Misdemeanors Only. -- This Part applies to sentences imposed for misdemeanor convictions.

(b) Procedure Generally; Term of Imprisonment. -- A sentence imposed for a misdemeanor shall contain a sentence disposition specified for the class of offense and prior conviction level, and any sentence of imprisonment shall be within the range specified for the class of offense and prior conviction level, unless applicable statutes require otherwise. The kinds of sentence dispositions are active punishment, intermediate punishment, and community punishment. Except for the work and earned time credits authorized by G.S. 162-60, or earned time credits authorized by G.S. 15A-1355(c), if applicable, an offender whose sentence of imprisonment is activated shall serve each day of the term imposed.

(c) Suspension of Sentence. -- Unless otherwise provided, the court shall suspend a sentence of imprisonment if the class of offense and prior conviction level requires community or intermediate punishment as a sentence disposition.

(d) Earned Time Authorization. -- An offender sentenced to a term of imprisonment that is activated is eligible to receive earned time credit for misdemeanant offenders awarded by the Department of Correction or the custodian of a local confinement facility, pursuant to rules adopted in accordance with law. These rules shall not award misdemeanant offenders more than four days of earned time credit per month of incarceration.

"§ *15A-1340.21. Prior conviction level for misdemeanor sentencing.*

(a) Generally. -- The prior conviction level of a misdemeanor offender is determined by calculating the number of the offender's prior convictions that the court finds to have been proven in accordance with this section.

(b) Prior Conviction Levels for Misdemeanor Sentencing. -- The prior conviction levels for misdemeanor sentencing are:

(1) Level I -- 0 prior convictions.

(2) Level II -- At least 1, but not more than 4 prior convictions.

(3) Level III -- At least 5 prior convictions.

(c) Proof of Prior Convictions. -- A prior conviction shall be proved by any of the following methods:

(1) Stipulation of the parties.

(2) An original or copy of the court record of the prior conviction.

(3) A copy of records maintained by the Division of Criminal Information, the Division of Motor Vehicles, or of the Administrative Office of the Courts.

(4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior conviction exists and that the offender before the court is the same person as the offender named in the prior conviction. The original or a copy of the court records or a copy of the records maintained by the Division of Criminal Information, the Division of Motor Vehicles, or of the Administrative Office of the Courts, bearing the same name as that by which the offender is charged, is *prima facie* evidence that the offender named is the same person as the offender before the court, and that the facts set out in the record are true. For purposes of this subsection, 'copy' includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. Evidence presented by either party at trial may be utilized to prove prior convictions. Suppression of prior convictions is pursuant to G.S. 15A-980. If a motion is made pursuant to that section during the sentencing stage of the criminal action, either the State or the offender is entitled to a continuance of the sentencing hearing.

(d) Multiple Prior Convictions Obtained in One Court Week. -- For purposes of this section, if an offender is convicted of more than one offense in a single session of district court, or in a single week of superior court or of a court in another jurisdiction, only one of the convictions may be used to determine the prior conviction level.

"*§ 15A-1340.22. Multiple convictions.*

(a) Limits on Consecutive Sentences. -- If the court elects to impose consecutive sentences for two or more misdemeanors and the most serious misdemeanor is classified in Class 1 or Class 2, the cumulative length of the sentences of imprisonment shall not exceed twice the maximum sentence authorized for the class and prior conviction level of the most serious offense. Consecutive sentences shall not be imposed if all convictions are for Class 3 misdemeanors.

(b) Consolidation of Sentences. -- If an offender is convicted of more than one offense at the same session of court, the court may consolidate the offenses for judgment and impose a single judgment for the consolidated offenses. Any sentence imposed shall be

consistent with the appropriate prior conviction level of the most serious offense.

"*§ 15A-1340.23. Punishment limits for each class of offense and prior conviction level.*

(a) Offense Classification; Default Classifications. -- The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) Fines. -- Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars ($200.00) for a Class 3 misdemeanor and one thousand dollars ($1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor is in the discretion of the court.

(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described. -- Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:

(1) A sentence disposition or dispositions: 'C' indicates that a community punishment is authorized; 'I' indicates that an intermediate punishment is authorized; and 'A' indicates that an active punishment is authorized; and

(2) A range of durations for the sentence of imprisonment; any sentence within the duration specified is permitted.

	PRIOR CONVICTION LEVELS		
MISDEMEANOR OFFENSE CLASS	LEVEL I No Prior Convictions	LEVEL II One to Four Prior Convictions	LEVEL III Five or More Prior Convictions
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A
3	1-10 days C	1-15 days C/I	1-20 days C/I/A."[1]

Sec. 2. G.S. 14-1.1 is repealed.

Sec. 2.1. G.S. 14-2 is repealed.

Sec. 3. G.S. 14-2.1 is repealed.

Sec. 4. G.S. 14-2.2 is repealed.

Sec. 5. G.S. 14-2.4 reads as rewritten:

"*§ 14-2.4. Punishment for conspiracy to commit a felony.*

(a) Unless a different ~~punishment~~ classification is expressly stated, a person who is convicted of a conspiracy to commit a felony is ~~guilty;~~ guilty of a felony that is one class lower than the felony he or she conspired to commit, except that a conspiracy to commit a Class I felony is a Class 1 misdemeanor.

~~(1) Of a Class J felony if the felony he conspired to commit was a Class H, I, or J felony;~~

~~(2) Of a Class H felony if the felony he conspired to commit was any other class of felony.~~

(b) Unless a different classification is expressly stated, a person who is convicted of a conspiracy to commit a misdemeanor is guilty of a misdemeanor that is one class lower than the misdemeanor he or she conspired to commit, except that a conspiracy to commit a Class 3 misdemeanor is a Class 3 misdemeanor."

Sec. 6. Chapter 14 of the General Statutes is amended by adding a new section to read:

"*§ 14-2.5. Punishment for attempt to commit a felony or misdemeanor.*

Unless a different classification is expressly stated, an attempt to commit a misdemeanor or a felony is punishable under the next lower classification as the offense which the offender attempted to commit. An attempt to commit a Class I felony is a Class 1 misdemeanor, and an attempt to commit a Class 3 misdemeanor is a Class 3 misdemeanor."

Sec. 6.1. Chapter 14 of the General Statutes is amended by adding a new section to read:

"*§ 14-2.6. Punishment for solicitation to commit a felony or misdemeanor.*

(a) Unless a different classification is expressly stated, a person who solicits another person to commit a felony is guilty of a felony that is two classes lower than the felony the person solicited the other person to commit, except that a solicitation to commit a Class H felony is a Class 1 misdemeanor, and a solicitation to commit a Class I felony is a Class 2 misdemeanor.

(b) Unless a different classification is expressly stated, a person who solicits another person to commit a misdemeanor is guilty of a Class 3 misdemeanor."

Sec. 7. G.S. 14-3 reads as rewritten:

"*§ 14-3. Punishment of misdemeanors, infamous offenses, offenses committed in secrecy and malice, or with deceit and intent to defraud, or with ethnic animosity.*

(a) Except as provided in subsections (b) and (c), every person who shall be convicted of any misdemeanor for which no specific classification and no specific punishment is prescribed by statute shall be punishable as a Class 1 misdemeanor. ~~by fine, by imprisonment for a term not exceeding two years, or by both, in the discretion of the court.~~ Any misdemeanor that has a specific punishment, but is not assigned a classification by the General Assembly pursuant to law is classified as follows, based on the maximum punishment allowed by law for the offense as it existed on the effective date of Article 81B of Chapter 15A of the General Statutes.

(1) If that maximum punishment is more than six months imprisonment, it is a Class 1 misdemeanor;

(2) If that maximum punishment is more than 30 days but not more than six months imprisonment, it is a Class 2 misdemeanor; and

(3) If that maximum punishment is 30 days or less imprisonment or only a fine, it is a Class 3 misdemeanor.

Misdemeanors that have punishments for one or more counties or cities pursuant to a local act of the General Assembly that are different from the generally applicable punishment are classified pursuant to this subsection if not otherwise specifically classified.

(b) If a misdemeanor offense as to which no specific punishment is prescribed be infamous, done in secrecy and malice, or with deceit and intent to defraud, the offender shall, except where the offense is a conspiracy to commit a misdemeanor, be guilty of a Class H felony.

(c) If any Class 2 or Class 3 misdemeanor ~~offense with punishment less than the punishment for a general misdemeanor~~ is committed because of the victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a ~~general~~ Class 1 misdemeanor. If any ~~general~~ Class 1 misdemeanor offense is committed because of the victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a Class ~~I~~ I felony."

Sec. 8. G.S. 14-4(a) reads as rewritten:

"(a) Except as provided in subsection (b), if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor ~~and shall be fined not more than five hundred dollars ($500.00), or imprisoned for not more than 30 days~~. No fine shall exceed fifty dollars ($50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars ($50.00)."

Sec. 9. G.S. 14-7.6 reads as rewritten:

"*§ 14-7.6. Sentencing of habitual felons.*

When an habitual felon ~~as defined in this Article~~ shall commit any felony classified as a Class E, F, G, H, or I felony under the laws of

the State of North Carolina, he must, upon conviction or plea of guilty under indictment as herein ~~provided~~ provided, be punished as a Class D felon. In determining the prior record level, convictions used to establish a person's status as a habitual felon shall not be used. For purposes of this section, habitual felon is defined as in G.S. 14-7.1, except that only one of the three felony convictions may be for a Class H, I, or J felony. ~~(except where the death penalty or a sentence of life imprisonment is imposed) be sentenced as a Class C felon. Notwithstanding any other provision of law, a person sentenced under this Article shall serve a term of not less than seven years in prison, excluding gain time granted under G.S. 148-13. A person sentenced under this Article shall receive a sentence of at least 14 years in the State's prison and shall be entitled to credit for good behavior under G.S. 15A-1340.7. The sentencing judge may not suspend the sentence and may not place the person sentenced on probation.~~ Sentences imposed under this Article shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder."

Sec. 10. G.S. 15A-1022(a) reads as rewritten:

"(a) Except in the case of corporations or in misdemeanor cases in which there is a waiver of appearance under G.S. 15A-1011(a)(3), a superior court judge may not accept a plea of guilty or no contest from the defendant without first addressing him personally and:

(1) Informing him that he has a right to remain silent and that any statement he makes may be used against him;
(2) Determining that he understands the nature of the charge;
(3) Informing him that he has a right to plead not guilty;
(4) Informing him that by his plea he waives his right to trial by jury and his right to be confronted by the witnesses against him;
(5) Determining that the defendant, if represented by counsel, is satisfied with his representation;
(6) Informing him of the maximum possible sentence on the charge for the class of offense for which the defendant is being sentenced, including that possible from consecutive sentences, and of the mandatory minimum sentence, if any, on the charge; and
(7) Informing him that if he is not a citizen of the United States of America, a plea of guilty or no contest may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law."

Sec. 11. G.S. 15A-1301 reads as rewritten:

"*§ 15A-1301. Order of commitment to imprisonment when not otherwise specified.*

When a judicial official orders that a defendant be imprisoned he must issue an appropriate written commitment order. When the commitment is to a sentence of imprisonment, the commitment must include the identification and class of the offense or offenses for which the defendant was convicted and, if the sentences are consecutive, the maximum sentence allowed by law upon conviction of each offense for the punishment range used to impose the sentence for the class of offense and prior record or conviction level, and, if the sentences are concurrent or consolidated, the longest of the maximum sentences allowed by law for the classes of offense and prior record or conviction levels upon conviction of any of the offenses."

Sec. 12. G.S. 15A-1331 reads as rewritten:

"*§ 15A-1331. Authorized sentences; conviction.*

(a) The criminal judgment entered against a person in either district or superior court ~~may~~ shall be consistent with the provisions of Article 81B of this Chapter and contain a sentence disposition consistent with that Article, unless the offense for which his guilt has been established is not covered by that Article. ~~a capital offense, or unless a statute otherwise specifically provides, include a sentence in accordance with the provision of this Article to one or a combination of the following alternatives:~~

~~(1) Probation as authorized by Article 82, Probation, or a term of imprisonment as authorized by Article 83, Imprisonment; or~~

~~(2) A fine as authorized by Article 84, Fines; or~~

~~(3) Other punishment authorized or required by law.~~

(b) For the purpose of imposing sentence, a person has been convicted when he has been adjudged guilty or has entered a plea of guilty or no contest."

Sec. 13. G.S. 15A-1332(c) reads as rewritten:

"(c) Presentence Commitment for Study. -- When the court desires more detailed information as a basis for determining the sentence to be imposed than can be provided by a presentence investigation, the court may commit a defendant to the Department of Correction for study for the shortest period necessary to complete the study, not to exceed 90 days, if that defendant has been charged with or convicted of ~~a~~ any felony or a Class 1 misdemeanor crime or crimes for which he may be imprisoned for more than six months and if he consents. The period of commitment must end when the study is completed, and may not exceed 90 days. The Department must conduct a complete study of a defendant committed to it under this subsection, inquiring into such matters as the defendant's previous delinquency or criminal experience, his social background, his capabilities, his mental, emotional and physical health, and the availability of resources or

programs appropriate to the defendant. Upon completion of the study or the end of the 90-day period, whichever occurs first, the Department of Correction must release the defendant to the sheriff of the county in which his case is docketed. The Department must forward the study to the clerk in that county, including whatever recommendations the Department believes will be helpful to a proper resolution of the case. When a defendant is returned from a presentence commitment for study, the conditions of pretrial release which obtained for the defendant before the commitment continue until judgment is entered, unless the conditions are modified under the provisions of G.S. 15A-534(e)."

Sec. 14. Article 81A of Chapter 15A of the General Statutes is repealed.

Sec. 15. G.S. 15A-1341 reads as rewritten:

"*§ 15A-1341. Probation generally.*

(a) Use of Probation. -- ~~A~~ Unless specifically prohibited, a person who has been convicted of any ~~noncapital~~ criminal offense ~~not punishable by a minimum term of life imprisonment or a minimum term without benefit of probation~~ may be placed on probation as provided by this Article if the class of offense of which the person is convicted and the person's prior record or conviction level under Article 81B of this Chapter authorizes a community or intermediate punishment as a type of sentence disposition or if the person is convicted of impaired driving under G.S. 20-138.1. ~~A person who has been charged with a criminal offense not punishable by a term of imprisonment greater than 10 years may be placed on probation as provided in this Article on motion of the defendant and the prosecutor if the court finds each of the following facts:~~

~~(1) Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.~~

~~(2) Each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard.~~

~~(3) The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.~~

~~(4) The defendant has not previously been placed on probation and so states under oath.~~

~~(5) The defendant is unlikely to commit another offense punishable by a term of imprisonment greater than 30 days.~~

(a1) Deferred Prosecution. -- A person who has been charged with a Class H or I felony or a misdemeanor may be placed on probation

as provided in this Article on motion of the defendant and the prosecutor if the court finds each of the following facts:

(1) Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.

(2) Each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard.

(3) The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.

(4) The defendant has not previously been placed on probation and so states under oath.

(5) The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

(b) Supervised and Unsupervised Probation. -- The court may place a person on supervised or unsupervised probation. A person on unsupervised probation is subject to all incidents of probation except supervision by or assignment to a probation officer.

(c) Election to Serve Sentence or Be Tried on Charges. -- Any person placed on probation may at any time during the probationary period elect to serve his suspended sentence of imprisonment in lieu of the remainder of his probation. Any person placed on probation upon deferral of prosecution may at any time during the probationary period elect to be tried upon the charges deferred in lieu of remaining on probation."

Sec. 16. G.S. 15A-1343(b1) reads as rewritten:

"(b1) Special Conditions. -- In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

(1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(2) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation.

(2a) Submit to a period of imprisonment in a facility for youthful offenders for a minimum of 90 days or a maximum of 120 days under special probation, reference G.S. 15A-1351(a) or G.S. 15A-1344(e), and abide by all rules and regulations as provided in conjunction with the Intensive Motivational Program of Alternative Correctional

Treatment (IMPACT), which provides an atmosphere for learning personal confidence, personal responsibility, self-respect, and respect for attitudes and value systems.

(3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).

(3a) Remain in one or more specified places for a specified period or periods each day, and wear a device that permits the defendant's compliance with the condition to be monitored electronically.

(3b) Submit to supervision by officers assigned to the Intensive Probation Program established pursuant to G.S. 143B-262(c), and abide by the rules adopted for that Program.

(4) Surrender his driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.

(5) Compensate the Department of Environment, Health, and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment, Health, and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).

(6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.

(7) Submit at reasonable times to warrantless searches by a probation officer of his person and of his vehicle and premises while he is present, for purposes specified by the court and reasonably related to his probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.

(8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

(8a) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted.

(9) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.

(10) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation."

Sec. 17. G.S. 15A-1343.1 reads as rewritten:

"*§ 15A-1343.1. Criteria for selection and sentencing to IMPACT.*

The criteria for selecting and sentencing youthful offenders to the Intensive Motivational Program of Alternative Correctional Treatment as provided under G.S. 15A-1343(b1)(2a) shall be as follows:

(1) The offender must be between the ages of 16 and 25;

(2) The offender must be convicted of ~~an offense punishable by a prison sentence of one year or more;~~ a Class 1 misdemeanor or a felony.

(3) The offender must submit to a medical evaluation by a physician approved by his probation or parole officer and must be certified by the physician to be medically fit for program participation;

(4) The offender must not previously have served an active sentence in excess of 120 days for an offense not subject to Article 81B of this Chapter or of 30 days for an offense subject to Article 81B of this Chapter."

Sec. 17.1. Chapter 15A of the General Statutes is amended to add a new section to read:

"*§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.*

(a) Applicability. -- This section applies only to persons sentenced under Article 81B of this Chapter.

(b) Purposes of Probation for Community and Intermediate Punishments. -- The Department of Correction shall develop a plan to handle offenders sentenced to community and intermediate punishments. The probation program designed to handle these offenders shall have the following principal purposes: to hold offenders accountable for making restitution, to ensure compliance with the court's judgment, to effectively rehabilitate offenders by directing them to specialized treatment or education programs, and to protect the public safety.

(c) Probation Caseload Goals. -- It is the goal of the General Assembly that, subject to the availability of funds, caseloads for probation officers supervising persons sentenced to community punishment should not exceed an average of 90 offenders per officer, and caseloads for offenders sentenced to intermediate punishments should not exceed an average of 60 offenders per officer by July 1, 1998.

(d) Lengths of Probation Terms Under Structured Sentencing. -- Unless the court makes specific findings that longer or shorter periods of probation are necessary, the length of the term of probation for offenders sentenced under Article 81B shall be as follows:

(1) For misdemeanants sentenced to community punishment, not less that six nor more than 18 months;

(2) For misdemeanants sentenced to intermediate punishment, not less than 12 nor more than 24 months;

(3) For felons sentenced to community punishment, not less than 12 nor more than 30 months; and

(4) For felons sentenced to intermediate punishment, not less than 18 nor more than 36 months.

The court may with the consent of the offender extend the original term of the probation if necessary to complete a program of restitution or to complete medical or psychiatric treatment ordered as a condition of probation. This extension may be for no more than three years, and may only be ordered in the last six months of the original probation term.

(e) Delegation to Probation Officer in Community Punishment. -- The court may delegate to the Division of Adult Probation and Parole in the Department of Correction the authority to require an offender sentenced to community punishment to:

(1) Perform up to 20 hours of community service, and pay the fee prescribed by law for this supervision;

(2) Report to the offender's probation officer on a frequency to be determined by the officer; or

(3) Submit to substance abuse monitoring or treatment.

If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises authority delegated by the court pursuant to this subsection, the offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. The Division may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court.

(f) Delegation to Probation Officer in Intermediate Punishments. -- The court may delegate to the Division of Adult Probation and Parole in the Department of Correction the authority to require an offender sentenced to intermediate punishment to:

(1) Perform up to 50 hours of community service, and pay the fee prescribed by law for this supervision;

(2) Submit to electronic monitoring;

(3) Submit to substance abuse monitoring or treatment; or

(4) Participate in an educational or vocational skills development program.

If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises authority delegated to him or her by the court pursuant to this subsection, the offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. The Division may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court.

(g) Contempt for Probation Violation on Intermediate Punishments. -- An offender sentenced to an intermediate punishment who willfully fails to comply with a condition of probation commits an act of criminal contempt as specified in G.S. 5A-11(a)(10) for doing so, and may be punished as provided in Article 1 of Chapter 5A of the General Statutes. Service of a sentence for contempt under this subsection does not terminate the offender's probation. Notwithstanding the provisions of G.S. 5A-12(a), an offender punished under this subsection may be imprisoned for up to 30 days, but no fine or any other punishment shall be imposed for contempt under this subsection. A person held in criminal contempt under this section shall not for the same conduct have the person's probation revoked under this Article. A person imprisoned under this

subsection for contempt shall be given day-for-day credit on any sentence of imprisonment for the underlying offense, if the offender's probation is subsequently revoked. If the offender serves a sentence for contempt in a local confinement facility, the Department of Correction shall pay for the confinement at the standard rate set by the General Assembly pursuant to G.S. 148-32.1(a), regardless of whether the offender would be eligible under the terms of that subsection.

(h) Definitions. -- For purposes of this section, the definitions in G.S. 15A-1340.11 apply."

Sec. 18. G.S. 15A-1344 reads as rewritten:

"*§ 15A-1344. Response to violations; alteration and revocation.*

(a) Authority to Alter or Revoke. -- Except as provided in subsection (b), probation may be reduced, terminated, continued, extended, modified, or revoked by any judge entitled to sit in the court which imposed probation and who is resident or presiding in the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, where the sentence of probation was imposed, where the probationer violates probation, or where the probationer resides. Upon a finding that an offender sentenced to community punishment under Article 81B has violated one or more conditions of probation, the court's authority to modify the probation judgment includes the authority to require the offender to comply with conditions of probation that would otherwise make the sentence an intermediate punishment. The district attorney of the prosecutorial district as defined in G.S. 7A-60 in which probation was imposed must be given reasonable notice of any hearing to affect probation substantially.

(b) Limits on Jurisdiction to Alter or Revoke Unsupervised Probation. -- If the sentencing judge has entered an order to limit jurisdiction to consider a sentence of unsupervised probation under G.S. 15A-1342(h), a sentence of unsupervised probation may be reduced, terminated, continued, extended, modified, or revoked only by the sentencing judge or, if the sentencing judge is no longer on the bench, by a presiding judge in the court where the defendant was sentenced.

(c) Procedure on Altering or Revoking Probation; Returning Probationer to District Where Sentenced. -- When a judge reduces, terminates, extends, modifies, or revokes probation outside the county where the judgment was entered, the clerk must send a copy of the order and any other records to the court where probation was originally imposed. A court on its own motion may return the probationer to the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as

the case may be, where probation was imposed or where the probationer resides for reduction, termination, continuation, extension, modification, or revocation of probation. In cases where the probation is revoked in a county other than the county of original conviction the clerk in that county must issue a commitment order and must file the order revoking probation and the commitment order, which will constitute sufficient permanent record of the proceeding in that court, and must send a certified copy of the order revoking probation, the commitment order, and all other records pertaining thereto to the county of original conviction to be filed with the original records. The clerk in the county other than the county of original conviction must issue the formal commitment to the North Carolina Department of Correction.

(d) Extension and Modification; Response to Violations. -- At any time prior to the expiration or termination of the probation period, the court may after notice and hearing and for good cause shown extend the period of probation up to the maximum allowed under G.S. 15A-1342(a) and may modify the conditions of probation. The probation period shall be tolled if the probationer shall have pending against him criminal charges in any court of competent jurisdiction, which, upon conviction, could result in revocation proceedings against him for violation of the terms of this probation. The hearing may be held in the absence of the defendant, if he fails to appear for the hearing after a reasonable effort to notify him. If a convicted defendant violates a condition of probation at any time prior to the expiration or termination of the period of probation, the court, in accordance with the provisions of G.S. 15A-1345, may continue him on probation, with or without modifying the conditions, may place the defendant on special probation as provided in subsection (e), or, if continuation, modification, or special probation is not appropriate, may revoke the probation and activate the suspended sentence imposed at the time of initial sentencing, if any, or may order that charges as to which prosecution has been deferred be brought to trial; provided that probation may not be revoked solely for conviction of a ~~misdemeanor unless it is punishable by imprisonment for more than 30 days,~~ Class 3 misdemeanor. The court, before activating a sentence to imprisonment established when the defendant was placed on probation, may reduce the ~~sentence,~~ sentence, but the reduction shall be consistent with subsection (d1) of this section. A sentence activated upon revocation of probation commences on the day probation is revoked and runs concurrently with any other period of probation, parole, or imprisonment to which the defendant is subject during that period unless the revoking judge specifies that it is to run consecutively with the other period.

subsection for contempt shall be given day-for-day credit on any sentence of imprisonment for the underlying offense, if the offender's probation is subsequently revoked. If the offender serves a sentence for contempt in a local confinement facility, the Department of Correction shall pay for the confinement at the standard rate set by the General Assembly pursuant to G.S. 148-32.1(a), regardless of whether the offender would be eligible under the terms of that subsection.

(h) Definitions. -- For purposes of this section, the definitions in G.S. 15A-1340.11 apply."

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(b) Limits on Jurisdiction to Alter or Revoke Unsupervised Probation. -- If the sentencing judge has entered an order to limit jurisdiction to consider a sentence of unsupervised probation under G.S. 15A-1342(h), a sentence of unsupervised probation may be reduced, terminated, continued, extended, modified, or revoked only by the sentencing judge or, if the sentencing judge is no longer on the bench, by a presiding judge in the court where the defendant was sentenced.

(c) Procedure on Altering or Revoking Probation; Returning Probationer to District Where Sentenced. -- When a judge reduces, terminates, extends, modifies, or revokes probation outside the county where the judgment was entered, the clerk must send a copy of the order and any other records to the court where probation was originally imposed. A court on its own motion may return the probationer to the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as

the case may be, where probation was imposed or where the probationer resides for reduction, termination, continuation, extension, modification, or revocation of probation. In cases where the probation is revoked in a county other than the county of original conviction the clerk in that county must issue a commitment order and must file the order revoking probation and the commitment order, which will constitute sufficient permanent record of the proceeding in that court, and must send a certified copy of the order revoking probation, the commitment order, and all other records pertaining thereto to the county of original conviction to be filed with the original records. The clerk in the county other than the county of original conviction must issue the formal commitment to the North Carolina Department of Correction.

(d) Extension and Modification; Response to Violations. -- At any time prior to the expiration or termination of the probation period, the court may after notice and hearing and for good cause shown extend the period of probation up to the maximum allowed under G.S. 15A-1342(a) and may modify the conditions of probation. The probation period shall be tolled if the probationer shall have pending against him criminal charges in any court of competent jurisdiction, which, upon conviction, could result in revocation proceedings against him for violation of the terms of this probation. The hearing may be held in the absence of the defendant, if he fails to appear for the hearing after a reasonable effort to notify him. If a convicted defendant violates a condition of probation at any time prior to the expiration or termination of the period of probation, the court, in accordance with the provisions of G.S. 15A-1345, may continue him on probation, with or without modifying the conditions, may place the defendant on special probation as provided in subsection (e), or, if continuation, modification, or special probation is not appropriate, may revoke the probation and activate the suspended sentence imposed at the time of initial sentencing, if any, or may order that charges as to which prosecution has been deferred be brought to trial; provided that probation may not be revoked solely for conviction of a ~~misdemeanor unless it is punishable by imprisonment for more than 30 days.~~ Class 3 misdemeanor. The court, before activating a sentence to imprisonment established when the defendant was placed on probation, may reduce the ~~sentence.~~ sentence, but the reduction shall be consistent with subsection (d1) of this section. A sentence activated upon revocation of probation commences on the day probation is revoked and runs concurrently with any other period of probation, parole, or imprisonment to which the defendant is subject during that period unless the revoking judge specifies that it is to run consecutively with the other period.

required beyond two years of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. In imposing a sentence of special probation, the judge may credit any time spent committed or confined, as a result of the charge, to either the suspended sentence or to the imprisonment required for special probation. The period of probation, including the period of imprisonment required for special probation, may not exceed five years. The court may revoke, modify, or terminate special probation as otherwise provided for probationary sentences.

(b) ~~Sentencing of a person convicted of a felony that occurred on or after the effective date of Article 81A of this Chapter is subject to that Article; a minimum term of imprisonment shall not be imposed on such a person.~~ Sentencing of a person convicted of a felony or of a misdemeanor other than impaired driving under G.S. 20-138.1 that occurred on or after the effective date of Article 81B is subject to that Article. ~~With regard to convicted persons not subject to Article 81A,~~ For persons convicted of impaired driving under G.S. 20-138.1, a sentence to imprisonment must impose a maximum term and may impose a minimum term. The impaired driving judgment may state the minimum term or may state that a term constitutes both the minimum and maximum terms. If the impaired driving judgment states no minimum term, the defendant becomes eligible for parole in accordance with G.S. 15A-1371(a).

(c) Repealed by Session Laws 1979, c. 749, s. 7.

~~(d) Alternative to Minimum Term. -- In lieu of imposing a minimum term, the court may recommend to the Parole Commission a minimum period of imprisonment the offender should serve before being granted parole. The recommendation has the effect provided in G.S. 15A-1371(c). This subsection shall not apply to a person convicted of a felony that occurred on or after the effective date of Article 81A of this Chapter.~~

~~(e) Youthful Offenders. -- If an offender is under the age of 21 years at the time of conviction, the court may sentence the offender as a youthful offender under the provisions of Article 3B of Chapter 148 of the General Statutes.~~

(f) Work Release. -- When sentencing a person convicted of a felony, the sentencing court may recommend that the sentenced offender be granted work release as authorized in G.S. 148-33.1. When sentencing a person convicted of a misdemeanor, the sentencing court may recommend or, with the consent of the person sentenced,

order that the sentenced offender be granted work release as authorized in G.S. 148-33.1.

(g) Credit. -- Credit towards a sentence to imprisonment is as provided in Article 19A of Chapter 15 of the General Statutes.

(h) Substance Abuse Recommendation. -- The sentencing court may recommend that the sentenced offender be assigned to the Substance Abuse Treatment Unit for treatment of alcoholism or substance abuse during his imprisonment."

Sec. 20. G.S. 15A-1355(c) reads as rewritten:

"(c) Earned Time; Credit for Good Behavior for Impaired Drivers. -- ~~The Department of Correction and jailers, as defined by G.S. 15A-1340.2, must give credit for good behavior toward service of a prison or jail term imposed for a felony that occurred on or after the effective date of Article 81A, as required by G.S. 15A-1340.7. The provisions of this subsection do not apply to persons convicted of Class A or Class B felonies nor to persons sentenced to a term of special probation under G.S. 15A-1344(e) or G.S. 15A-1351(a). The Department of Correction and jailers may give time credit toward service of other prison or jail terms imposed for a felony or misdemeanor, according to regulations issued by the Secretary of Correction as provided by G.S. 148-13.~~ Persons convicted of felonies or misdemeanors under Article 81B of this Chapter may, consistent with rules of the Department of Correction, earn credit which may be used to reduce their maximum terms of imprisonment as provided in G.S. 15A-1340.13(d) for felony sentences and in G.S. 15A-1340.20(d) for misdemeanor sentences.

For sentences of imprisonment imposed for convictions of impaired driving under G.S. 20-138.1, the ~~The~~ Department of Correction may give credit toward service of the maximum term and any minimum term of imprisonment and toward eligibility for parole for allowances of time as provided in rules and regulations made under G.S. 148-11 and 148-13."

Sec. 20.1. Chapter 15A is amended by adding a new Article to read:

"ARTICLE 84A.

"Post-Release Supervision.

"§ *15A-1370.1. Definitions and administration.*

(a) The following words have the listed meaning in this Article:

(1) Post-release supervision or supervision. -- The time for which a sentenced prisoner is released from prison before the termination of his maximum prison term, controlled by the rules and conditions of this Article. Purposes of post-release supervision include all or any of the following: to monitor and control the prisoner in the community, to

assist the prisoner in reintegrating into society, to collect restitution and other court indebtedness from the prisoner, and to continue the prisoner's treatment or education.

(2) Supervisee. -- A person released from incarceration and in the custody of the Department of Correction and Post-Release Supervision and Parole Commission on post-release supervision.

(3) Commission. -- The Post-Release Supervision and Parole Commission, whose general authority is described in G.S. 143B-266.

(4) Minimum imposed term. -- The minimum term of imprisonment imposed on an individual prisoner by a court judgment, as described in G.S. 15A-1340.13(c). When a prisoner is serving consecutive imprisonment terms, the minimum imposed term, for purposes of this Article, is the sum of all minimum terms imposed in the court judgment.

(5) Maximum imposed term. -- The maximum term of imprisonment imposed on an individual prisoner by a court judgment, as described in G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms, the maximum imposed term, for purposes of this Article, is the sum of all maximum terms imposed in the court judgment.

(b) Administration. -- The Post-Release Supervision and Parole Commission, as authorized in Chapter 143, shall administer post-release supervision as provided in this Article.

"§ *15A-1370.2. Applicability of Article 84A.*

This Article applies to all felons in Class B through Class E sentenced to an active punishment as defined in G.S. 15A-1340.11. Prisoners subject to Articles 85 and 85A are excluded from this Article's coverage.

"§ *15A-1370.3. Post-release supervision eligibility and procedure.*

(a) A prisoner to whom this Article applies shall be released from prison for post-release supervision on the date equivalent to his maximum imposed prison term less nine months, less any earned time awarded by the Department of Correction or the custodian of a local confinement facility under G.S. 15A-1340(d). If a prisoner has not been awarded any earned time, the prisoner shall be released for post-release supervision on the date equivalent to his maximum prison term less nine months.

(b) A prisoner shall not refuse post-release supervision.

(c) A supervisee's period of post-release supervision shall be for a period of six months. The conditions of post-release supervision are as authorized in G.S. 15A-1370.5.

(d) A supervisee's period of post-release supervision may be reduced while the supervisee is under supervision by earned time awarded by the Department of Correction, pursuant to rules adopted in accordance with law. A supervisee is eligible to receive earned time credit toward the period of supervision for compliance with reintegrative conditions described in G.S. 15A-1370.5.

(e) The Commission shall choose the level of supervision for supervisees. It may place a supervisee on any available level of supervision, including electronic monitoring, intensive supervision, or regular supervision.

(f) When a supervisee completes the period of post-release supervision, the sentence or sentences from which the supervisee was placed on post-release supervision are terminated.

"*§ 15A-1370.4. Incidents of post-release supervision.*

(a) Conditionality. -- Post-release supervision is conditional and subject to revocation.

(b) Modification. -- The Commission may for good cause shown modify the conditions of post-release supervision at any time before the termination of the supervision period.

(c) Effect of Violation. -- If the supervisee violates a condition, described in G.S. 15A-1370.5, at any time before the termination of the supervision period, the Commission may continue the supervisee on the existing supervision, with or without modifying the conditions, or if continuation or modification is not appropriate, may revoke post-release supervision as provided in G.S. 15A-1370.7 and reimprison the supervisee for a term consistent with the following requirements:

(1) The supervisee will be returned to prison up to the time remaining on his maximum imposed term.

(2) The supervisee shall not receive any credit for days on post-release supervision against the maximum term of imprisonment imposed by the court under G.S. 15A-1340.13.

(3) Pursuant to Article 19A of Chapter 15, the Department of Correction shall award a prisoner credit against any term of reimprisonment for all time spent in custody as a result of revocation proceedings under G.S. 15A-1370.7.

(4) The prisoner is eligible to receive earned time credit against the maximum prison term as provided in G.S. 15A-1340(d) for time served in prison after the revocation.

(d) Re-Release After Revocation of Post-Release Supervision. -- A prisoner who has been reimprisoned prior to completing a post-release supervision period may again be released on post-release supervision by the Commission subject to the provisions which govern initial release.

(e) Timing of Revocation. -- The Commission may revoke post-release supervision for violation of a condition during the period of supervision. The Commission may also revoke following a period of supervision if:

(1) Before the expiration of the period of post-release supervision, the Commission has recorded its intent to conduct a revocation hearing; and

(2) The Commission finds that every reasonable effort has been made to notify the supervisee and conduct the hearing earlier. *Prima facie* evidence of reasonable effort to notify is the issuance of a temporary or conditional revocation order, as provided in G.S. 15A-1376, that goes unserved.

"*§ 15A-1370.5. Conditions of post-release supervision.*

(a) In General. -- Conditions of post-release supervision may be reintegrative in nature or designed to control the supervisee's behavior and to enforce compliance with law or judicial order. A supervisee may have his supervision period revoked for any violation of a controlling condition or for repeated violation of a reintegrative condition. Compliance with reintegrative conditions may entitle a supervisee to earned time credits as described in G.S. 15A-1370.3(d).

(b) Required Condition. -- The Commission shall provide as an express condition of every release that the supervisee not commit another crime during the period for which the supervisee remains subject to revocation. A supervisee's failure to comply with this controlling condition is a supervision violation for which the supervisee may face revocation as provided in G.S. 15A-1370.4.

(c) Discretionary Conditions. -- The Commission may in its discretion impose conditions on a supervisee it believes reasonably necessary to ensure that the supervisee will lead a law-abiding life or to assist the supervisee to do so.

(d) Reintegrative Conditions. -- Appropriate reintegrative conditions, for which a supervisee may receive earned time credits against the length of the supervision period, and repeated violation that may result in revocation of post-release supervision, are:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the supervisee for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility providing rehabilitation, instruction, recreation, or residence for persons on post-release supervision.

(4) Support the supervisee's dependents and meet other family responsibilities.

(5) In the case of a supervisee who attended a basic skills program during incarceration, continue attending a basic skills program in pursuit of a General Education Development Degree or adult high school diploma.

(6) Satisfy other conditions reasonably related to reintegration into society.

(e) Controlling Conditions. -- Appropriate controlling conditions, violation of which may result in revocation of post-release supervision, are:

(1) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for the supervisee by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

(2) Comply with a court order to pay the costs of reintegrative treatment for a minor and a minor's parents or custodians where the offense involved evidence of physical, mental, or sexual abuse of a minor.

(3) Comply with a court order to pay court costs and costs for appointed counsel or public defender in the case for which the supervisee was convicted.

(4) Not possess a firearm, destructive device, or other dangerous weapon unless granted written permission by the Commission or a post-release supervision officer.

(5) Report to a post-release supervision officer at reasonable times and in a reasonable manner, as directed by the Commission or a post-release supervision officer.

(6) Permit a post-release supervision officer to visit at reasonable times at the supervisee's home or elsewhere.

(7) Remain within the geographic limits fixed by the Commission unless granted written permission to leave by the Commission or the post-release supervision officer.

(8) Answer all reasonable inquiries by the post-release supervision officer and obtain prior approval from the post-release supervision officer for any change in address or employment.

(9) Promptly notify the post-release supervision officer of any change in address or employment.

(10) Submit at reasonable times to searches of the supervisee's person by a post-release supervision officer for purposes reasonably related to the post-release supervision. The Commission shall not require as a condition of post-release supervision that the supervisee submit to any other searches that would otherwise be unlawful. Whenever the search consists of testing for the presence of illegal drugs, the supervisee may also be required to reimburse the Department of Correction for the actual cost of drug testing and drug screening, if the results are positive.

(11) Make restitution or reparation to an aggrieved party as provided in G.S. 148-57.1.

(12) Comply with an order from a court of competent jurisdiction regarding the payment of an obligation of the supervisee in connection with any judgment rendered by the court.

(f) Required Supervision Fee. -- The Commission shall require as a condition of post-release supervision that the supervisee pay a supervision fee of twenty dollars ($20.00) per month. The Commission may exempt a supervisee from this condition only if it finds that requiring payment of the fee is an undue economic burden. The fee shall be paid to the clerk of superior court of the county in which the supervisee was convicted. The clerk shall transmit any money collected pursuant to this subsection to the State to be deposited in the State's General Fund. In no event shall a supervisee be required to pay more than one supervision fee per month.

"§ *15A-1370.6. Commencement of post-release supervision; multiple sentences.*

A period of post-release supervision begins on the day the prisoner is released from imprisonment. Periods of post-release supervision run concurrently with any federal or State prison, jail, probation, or parole terms to which the prisoner is subject during the period, only if the jurisdiction which sentenced the prisoner to prison, jail, probation, or parole permits concurrent crediting of supervision time.

"§ *15A-1370.7. Arrest and hearing on post-release supervision violation.*

(a) Arrest for Violation of Post-Release Supervision. -- A supervisee is subject to arrest by a law enforcement officer or a post-release supervision officer for violation of conditions of post-release supervision only upon issuance of an order of temporary or conditional revocation of post-release supervision by the Commission. However, a post-release supervision revocation hearing under subsection (e) of this section may be held without first arresting the supervisee.

(b) When and Where Preliminary Hearing on Post-Release Supervision Violation Required. -- Unless the hearing required by subsection (e) of this section is first held or the supervisee waives the hearing or a continuance is requested by the supervisee, a preliminary hearing on supervision violation shall be held reasonably near the place of the alleged violation or arrest and within seven working days of the arrest of a supervisee to determine whether there is probable cause to believe that the supervisee violated a condition of post-release supervision. Otherwise, the supervisee shall be released seven working days after arrest to continue on supervision pending a hearing. If the supervisee is not within the State, the preliminary hearing is as prescribed by G.S. 148-65.1A.

(c) Officers to Conduct Preliminary Hearing. -- The preliminary hearing on post-release supervision violation shall be conducted by a judicial official, or by a hearing officer designated by the Commission. A person employed by the Department of Correction shall not serve as a hearing officer at a hearing provided by this section unless that person is a member of the Commission, or is employed solely as a hearing officer.

(d) Procedure for Preliminary Hearing. -- The Department of Correction shall give the supervisee notice of the preliminary hearing and its purpose, including a statement of the violations alleged. At the hearing, the supervisee may appear and speak in the supervisee's own behalf, may present relevant information, and may, on request, personally question witnesses and adverse informants, unless the hearing officer finds good cause for not allowing confrontation. If the person holding the hearing determines there is probable cause to believe the supervisee violated conditions of supervision, the hearing officer shall summarize the reasons for the determination and the evidence relied on. Formal rules of evidence do not apply at the hearing. If probable cause is found, the supervisee may be held in the custody of the Department of Correction to serve the appropriate term of imprisonment, subject to the outcome of a revocation hearing under subsection (e) of this section.

(e) Revocation Hearing. -- Before finally revoking post-release supervision, the Commission shall, unless the supervisee waived the hearing or the time limit, provide a hearing within 45 days of the supervisee's reconfinement to determine whether to revoke supervision finally. The Commission shall adopt rules governing the hearing and shall file and publish them as provided in Article 5 of Chapter 150B of the General Statutes."

Sec. 21. G.S. 15A-1370.1 reads as rewritten:

"§ *15A-1370.1. Applicability of Article 85.*

This Article is applicable to all prisoners serving sentences of imprisonment for convictions of impaired driving under G.S. 20-138.1 and prisoners serving sentences of life imprisonment. ~~sentenced prisoners, including Class A and Class B felons, and Class C felons who receive a sentence of life imprisonment, who are not subject to Article 85A of this Chapter.~~"

Sec. 22. G.S. 15A-1371 reads as rewritten:

"*§ 15A-1371. Parole eligibility, consideration, and refusal.*

(a) Eligibility. -- Unless his sentence includes a minimum sentence, a prisoner serving a term of imprisonment for a conviction of impaired driving under G.S. 20-138.1 other than one included in a sentence of special probation imposed under authority of this Subchapter is eligible for release on parole at any time. A prisoner whose sentence includes a minimum term of imprisonment imposed under authority of this Subchapter is eligible for release on parole only upon completion of the service of that minimum term or one fifth of the maximum penalty allowed by law for the offense for which the prisoner is sentenced, whichever is less, less any credit allowed under G.S. 15A-1355(c) and Article 19A of Chapter 15 of the General Statutes. ~~Under this section, when the maximum allowed by law for the offense is life imprisonment, one fifth of the maximum is calculated as 20 years.~~

(a1) A prisoner serving a term of life imprisonment ~~with no minimum term~~ is eligible for parole after serving ~~20~~ 25 years. This subsection applies to offenses committed on and after ~~July 1, 1981~~ January 1, 1995.

~~(b) Consideration for Parole. -- The Parole Commission must consider the desirability of parole for each person sentenced as a felon for a maximum term of 18 months or longer:~~

~~(1) Within the period of 90 days prior to his eligibility for parole, if he is ineligible for parole until he has served more than a year;~~

~~(2) Within the period of 90 days prior to the expiration of the first year of the sentence, if he is eligible for parole at any time. Whenever the Parole Commission will be considering for parole a prisoner who, if released, would have served less than half of the maximum term of his sentence, the Commission must notify the prisoner and the district attorney of the district where the prisoner was convicted at least 30 days in advance of considering the parole. If the district attorney makes a written request in such cases, the Commission must publicly conduct its consideration of parole. Following its consideration, the Commission must give the prisoner written notice of its decision. If parole is~~

~~denied, the Commission must consider its decision while the prisoner is eligible for parole at least once a year until parole is granted and must give the prisoner written notice of its decision at least once a year; or~~

(3) Whenever the ~~Parole Commission~~ Post-Release Supervision and Parole Commission will be considering for parole a prisoner serving a sentence of life imprisonment ~~convicted of first- or second-degree murder, first-degree rape, or first-degree sexual offense,~~ the Commission must notify, at least 30 days in advance of considering the parole, by first class mail at the last known address:

a. The prisoner;

b. The district attorney of the district where the prisoner was convicted;

c. The head of the law enforcement agency that arrested the prisoner, if the head of the agency has requested in writing that he be notified;

d. Any of the victim's immediate family members who have requested in writing to be ~~notified; and~~ notified.

~~e. The victim, in cases of first-degree rape or first-degree sexual offense, if the victim has requested in writing to be notified.~~

The ~~Parole Commission~~ Post-Release Supervision and Parole Commission must consider any information provided by any such parties before consideration of parole. The Commission must also give the district attorney, the head of the law enforcement agency who has requested in writing to be notified, the victim, or any member of the victim's immediate family who has requested to be notified, written notice of its decision within 10 days of that decision.

~~(c) Statement of Reasons for Release before Minimum. -- If parole is granted before the expiration of a minimum period of imprisonment imposed by the court under G.S. 15A-1351(b) or recommended by the court under G.S. 15A-1351(d), the Commission must state in writing the reasons why the imposed or recommended minimum was not followed.~~

(d) Criteria. -- The ~~Parole Commission~~ Post-Release Supervision and Parole Commission may refuse to release on parole a prisoner it is considering for parole if it believes:

(1) There is a substantial risk that he will not conform to reasonable conditions of parole; or

(2) His release at that time would unduly depreciate the seriousness of his crime or promote disrespect for law; or

(3) His continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life if he is released at a later date; or

(4) There is a substantial risk that he would engage in further criminal conduct.

(e) Refusal of Parole. -- A prisoner who has been granted parole may elect to refuse parole and to serve the remainder of his term of imprisonment.

~~(f) Mandatory Parole at End of Felony Term. -- No later than six months prior to completion of his maximum term, the Parole Commission must parole every person convicted of a felony and sentenced to a maximum term of not less than 18 months of imprisonment, unless:~~

~~(1) The person is to serve a period of probation following his imprisonment;~~

~~(2) The person has been reimprisoned following parole as provided in G.S. 15A-1373(e); or~~

~~(3) The Parole Commission finds facts demonstrating a strong likelihood that the health or safety of the person or public would be endangered by his release at that time.~~

(g) Notwithstanding the provisions of subsection (a), a prisoner serving a sentence of not less than 30 days nor as great as 18 months for ~~a felony or a misdemeanor~~ impaired driving may be released on parole when he completes service of one-third of his maximum sentence unless the ~~Parole Commission~~ Post-Release Supervision and Parole Commission finds in writing that:

(1) There is a substantial risk that he will not conform to reasonable conditions of parole; or

(2) His release at that time would unduly depreciate the seriousness of his crime or promote disrespect for law; or

(3) His continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life if he is released at a later date; or

(4) There is a substantial risk that he would engage in further criminal conduct.

If a prisoner is released on parole by operation of this subsection, the term of parole is the unserved portion of the sentence to imprisonment, and the conditions of parole, unless otherwise specified by the ~~Parole Commission~~ Post-Release Supervision and Parole Commission, are those authorized in G.S. 15A-1374(b)(4) through (10).

In order that the ~~Parole Commission~~ Post-Release Supervision and Parole Commission may have an adequate opportunity to make a determination whether parole under this section should be denied, no prisoner eligible for parole under this ~~section~~ subsection shall be released from confinement prior to the fifth full working day after he shall have been placed in the custody of the Secretary of Correction or the custodian of a local confinement facility.

(h) Community Service Parole. -- Notwithstanding the provisions of any other subsection herein, ~~certain~~ prisoners ~~specified herein~~ serving sentences for impaired driving shall be eligible for community service parole, in the discretion of the ~~Parole Commission,~~ Post-Release Supervision and Parole Commission.

Community service parole is early parole for the purpose of participation in a program of community service under the supervision of a probation/parole officer. A parolee who is paroled under this subsection must perform as a condition of parole community service in an amount and over a period of time to be determined by the ~~Parole Commission.~~ Post-Release Supervision and Parole Commission. However, the total amount of community service shall not exceed an amount equal to 32 hours for each month of active service remaining in his minimum sentence ~~(if he was sentenced prior to July 1, 1981), or 32 hours for each month of active service in one-half of his sentence imposed under G.S. 15A-1340.4~~. The ~~Parole Commission~~ Post-Release Supervision and Parole Commission may grant early parole under this section without requiring the performance of community service if it determines that such performance is inappropriate to a particular case.

The probation/parole officer and the community service coordinator shall develop a program of community service for the parolee. The community service coordinator shall report any willful failure to perform community service work to the probation/parole officer. Parole may be revoked for any parolee who willfully fails to perform community service work as directed by a community service coordinator. The provisions of G.S. 15A-1376 shall apply to this violation of a condition of parole.

Community service parole eligibility shall be available to a prisoner:

(1) Who is serving an active sentence the term of which exceeds six months; and

(2) Who, in the opinion of the ~~Parole Commission,~~ Post-Release Supervision and Parole Commission, is unlikely to engage in further criminal conduct; and

(3) Who agrees to complete service of his sentence as herein specified; and

(4) Who has served one-half of his minimum sentence ~~(if he was sentenced prior to July 1, 1981), or one-fourth of a sentence imposed under G.S. 15A-1340.4~~.

~~No prisoner convicted under Article 7A of Chapter 14 of a sex offense, under G.S. 14-39, 14-41, or 14-43.3, or under G.S. 90-95(h) of a drug trafficking offense shall be eligible for community service parole.~~

In computing the service requirements of subdivision (4) of this subsection, credit shall be given for good time and gain time credit earned pursuant to G.S. 148-13. Nothing herein is intended to create or shall be construed to create a right or entitlement to community service parole in any prisoner.

(i) A fee of one hundred dollars ($100.00) shall be paid by all persons who participate in the Community Service Parole Program. That fee must be paid to the clerk of court in the county in which the parolee is released. The fee must be paid in full within two weeks unless the ~~Parole Commission,~~ Post-Release Supervision and Parole Commission, upon a showing of hardship by the person, allows him additional time to pay the fee. The parolee may not be required to pay the fee before he begins the community service unless the ~~Parole Commission~~ Post-Release Supervision and Parole Commission specifically orders that he do so. Fees collected under this subsection shall be deposited in the General Fund. The fee imposed under this section may be paid as prescribed by the supervising parole officer.

(j) The ~~Parole Commission~~ Post-Release Supervision and Parole Commission may terminate a prisoner's community service parole before the expiration of the term of imprisonment where doing so will not endanger the public, unduly depreciate the seriousness of the crime, or promote disrespect for the law."

Sec. 23. G.S. 15A-1372 reads as rewritten:

"*§ 15A-1372. Length and effect of parole term.*

(a) ~~Minimum~~ Term of Parole. -- The term of parole for any person released from imprisonment may be no ~~less~~ greater than:

(1) One year~~, if the remainder of the maximum term of imprisonment is one year or more; or~~ for a conviction for impaired driving under G.S. 20-138.1; or

~~(2) The remainder of the maximum term, if the remainder of the term of imprisonment is less than one year.~~

(2) Three years for a sentence of life imprisonment.

~~(b) Maximum Term of Parole. -- The maximum term of parole is the lesser of the following:~~

~~(1) The remainder of the maximum term; or~~

~~(2) Five years when the maximum prison sentence imposed is greater than 20 years; or~~

~~(3) Three years when the maximum prison sentence imposed is greater than 10 years but no greater than 20 years; or~~

~~(4) Two years when the maximum prison sentence imposed is not greater than 10 years.~~

(c) Termination of Sentence. -- When a parolee completes his period of parole, the sentence or sentences from which he was paroled are terminated.

~~(d) Parole and Terminate. -- The Parole Commission is authorized simultaneously to parole and terminate supervision of a prisoner when such prisoner has less than 180 days remaining on his maximum sentence, and when the Commission finds that such action will not be incompatible with the public interest. When the Parole Commission finds that such action will not be incompatible with the public interest, the Commission is also authorized:~~

~~(1) Simultaneously to parole and terminate supervision of a prisoner;~~

~~(2) To parole a prisoner on the condition that he be placed under house arrest; or~~

~~(3) To parole a prisoner but continue to supervise the prisoner for a period to be determined by the Commission;~~

~~when the prisoner is imprisoned only for a misdemeanor, except those persons convicted under G.S. 20-138.1 of driving while impaired or any offense involving impaired driving.~~"

Sec. 24. Article 85A of Chapter 15A of the General Statutes is repealed.

Sec. 25. G.S. 15A-1415(b) reads as rewritten:

"(b) The following are the only grounds which the defendant may assert by a motion for appropriate relief made more than 10 days after entry of judgment:

(1) The acts charged in the criminal pleading did not at the time they were committed constitute a violation of criminal law.

(2) The trial court lacked jurisdiction over the person of the defendant or over the subject matter.

(3) The conviction was obtained in violation of the Constitution of the United States or the Constitution of North Carolina.

(4) The defendant was convicted or sentenced under a statute that was in violation of the Constitution of the United States or the Constitution of North Carolina.

(5) The conduct for which the defendant was prosecuted was protected by the Constitution of the United States or the Constitution of North Carolina.

(6) Evidence is available which was unknown or unavailable to the defendant at the time of the trial, which could not with due diligence have been discovered or made available at that

time, and which has a direct and material bearing upon the guilt or innocence of the defendant.

(7) There has been a significant change in law, either substantive or procedural, applied in the proceedings leading to the defendant's conviction or sentence, and retroactive application of the changed legal standard is required.

(8) The sentence imposed was unauthorized at the time imposed, contained a type of sentence disposition or a term of imprisonment not authorized for the particular class of offense and prior record or conviction level ~~exceeded the maximum authorized by law,~~ was illegally imposed, or is otherwise invalid as a matter of law. However, a motion for appropriate relief on the grounds that the sentence imposed on the defendant is not supported by evidence introduced at the trial and sentencing hearing must be made before the sentencing judge.

(9) The defendant is in confinement and is entitled to release because his sentence has been fully served."

Sec. 26. G.S. 15A-1442 is amended by adding a new subdivision to read:

"(5b) Violation of Sentencing Structure. -- The sentence imposed:

a. Results from an incorrect finding of the defendant's prior record level under G.S. 15A-1340.14 or the defendant's prior conviction level under G.S. 15A-1340.21;

b. Contains a type of sentence disposition that is not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level; or

c. Contains a term of imprisonment that is for a duration not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class or offense and prior record or conviction level."

Sec. 27. G.S. 15A-1444 reads as rewritten:

"§ *15A-1444. When defendant may appeal; certiorari.*

(a) A defendant who has entered a plea of not guilty to a criminal charge, and who has been found guilty of a crime, is entitled to appeal as a matter of right when final judgment has been entered.

(a1) A defendant who has been found guilty, or entered a plea of guilty or no contest to a felony, is entitled to appeal as a matter of right the issue of whether his or her sentence is supported by evidence introduced at the trial and sentencing hearing only if the minimum ~~prison term of the~~ sentence of imprisonment does not fall within the

presumptive range for the defendant's prior record or conviction level and class of offense. ~~exceeds the presumptive term set by G.S. 15A-1340.4, and if the judge was required to make findings as to aggravating or mitigating factors pursuant to this Article.~~ Otherwise, the defendant ~~he~~ is not entitled to appeal this issue as a matter of right but may petition the appellate division for review of this issue by *writ of certiorari*.

(a2) A defendant who has entered a plea of guilty or no contest to a felony or misdemeanor in superior court is entitled to appeal as a matter of right the issue of whether the sentence imposed:

(1) Results from an incorrect finding of the defendant's prior record level under G.S. 15A-1340.14 or the defendant's prior conviction level under G.S. 15A-1340.21;

(2) Contains a type of sentence disposition that is not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level; or

(3) Contains a term of imprisonment that is for a duration not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level.

(b) Procedures for appeal from the magistrate to the district court are as provided in Article 90, Appeals from Magistrates and from District Court Judges.

(c) Procedures for appeal from the district court to the superior court are as provided in Article 90, Appeals from Magistrates and from District Court Judges.

(d) Procedures for appeal to the appellate division are as provided in this Article, the rules of the appellate division, and Chapter 7A of the General Statutes. The appeal must be perfected and conducted in accordance with the requirements of those provisions.

(e) Except as provided in subsection (a1) of this section and G.S. 15A-979, and except when a motion to withdraw a plea of guilty or no contest has been denied, the defendant is not entitled to appellate review as a matter of right when he has entered a plea of guilty or no contest to a criminal charge in the superior court, but he may petition the appellate division for review by *writ of certiorari*. If an indigent defendant petitions the appellate division for a *writ of certiorari*, the presiding superior court judge may in his discretion order the preparation of the record and transcript of the proceedings at the expense of the State.

(f) The ruling of the court upon a motion for appropriate relief is subject to review upon appeal or by *writ of certiorari* as provided in G.S. 15A-1422.

(g) Review by *writ of certiorari* is available when provided for by this Chapter, by other rules of law, or by rule of the appellate division."

Sec. 28. G.S. 15A-1445(a) is amended by adding a new subdivision to read as follows:

"(3) When the State alleges that the sentence imposed:

a. Results from an incorrect determination of the defendant's prior record level under G.S. 15A-1340.14 or the defendant's prior conviction level under G.S. 15A-1340.21;

b. Contains a type of sentence disposition that is not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level; or

c. Contains a term of imprisonment that is for a duration not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level.

d. Imposes an intermediate punishment pursuant to G.S. 15A-1340.13(g) based on findings of extraordinary mitigating circumstances that are not supported by evidence or are insufficient as a matter of law to support the dispositional deviation."

Sec. 29. G.S. 15A-2002 reads as rewritten:

"§ *15A-2002. Capital offenses; jury verdict and sentence.*

If the recommendation of the jury is that the defendant be sentenced to death, the judge shall impose a sentence of death in accordance with the provisions of Chapter 15, Article 19 of the General Statutes. If the recommendation of the jury is that the defendant be imprisoned for life in the State's prison, the judge shall impose a sentence of imprisonment for life in the State's prison.

The judge shall instruct the jury, in words substantially equivalent to those of this section, that a sentence of life imprisonment means a sentence of life with eligibility for parole consideration after 25 years."

Sec. 30. G.S. 90-95 reads as rewritten:

"§ *90-95. Violations; penalties.*

(a) Except as authorized by this Article, it is unlawful for any person:

(1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver, a controlled substance;

(2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit controlled substance;

(3) To possess a controlled substance.

(b) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:

(1) A controlled substance classified in Schedule I or II shall be punished as a Class H felon;

(2) A controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class I felon, but the transfer of less than 5 grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).

(c) Any person who violates G.S. 90-95(a)(2) shall be punished as a Class I felon.

(d) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(3) with respect to:

(1) A controlled substance classified in Schedule I shall be punished as a Class I felon;

(2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a ~~misdemeanor, and shall be sentenced to a term of imprisonment of not more than two years or fined not more than two thousand dollars ($2,000), or both in the discretion of the court.~~ Class 1 misdemeanor. If the controlled substance exceeds four tablets, capsules, or other dosage units or equivalent quantity of hydromorphone or if the quantity of the controlled substance, or combination of the controlled substances, exceeds one hundred tablets, capsules or other dosage units, or equivalent quantity, the violation shall be punishable as a Class I felony. If the controlled substance is phencyclidine, or cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocanized coca leaves or any extraction of coca leaves which does not contain cocaine or ecgonine), the violation shall be punishable as a Class I felony.

(3) A controlled substance classified in Schedule V shall be guilty of a ~~misdemeanor and shall be sentenced to a term of imprisonment of not more than six months or fined not more than five hundred dollars ($500.00), or both in the discretion of the court;~~ Class 2 misdemeanor;

(4) A controlled substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor, ~~and shall be sentenced to a term of imprisonment of not more than 30 days or fined not more than one hundred dollars ($100.00), or both, in the~~

~~discretion of the court,~~ but any sentence of imprisonment imposed must be suspended and the judge may not require at the time of sentencing that the defendant serve a period of imprisonment as a special condition of probation. If the quantity of the controlled substance exceeds one-half of an ounce (avoirdupois) of marijuana or one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, the violation shall be punishable as a ~~general~~ Class 1 misdemeanor. If the quantity of the controlled substance exceeds one and one-half ounces (avoirdupois) of marijuana or three-twentieths of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, or if the controlled substance consists of any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marijuana, the violation shall be punishable as a Class I felony.

(d1) Except as authorized by this Article, it is unlawful for any person to:

(1) Possess an immediate precursor chemical with intent to manufacture a controlled substance; or

(2) Possess or distribute an immediate precursor chemical knowing, or having reasonable cause to believe, that the immediate precursor chemical will be used to manufacture a controlled substance.

Any person who violates this subsection shall be punished as a Class H felon.

(d2) The immediate precursor chemicals to which subsection (d1) of this section applies are those immediate precursor chemicals designated by the Commission pursuant to its authority under G.S. 90-88, and the following (until otherwise specified by the Commission):

(1) Anthranilic acid.
(2) Benzyl cyanide.
(3) Chloroephedrine.
(4) Chloropseudoephedrine.
(5) D-lysergic acid.
(6) Ephedrine.
(7) Ergonovine maleate.
(8) Ergotamine tartrate.
(9) Ethyl Malonate.
(10) Ethylamine.
(11) Isosafrole.
(12) Malonic acid.
(13) Methylamine.
(14) N-acetylanthranilic acid.

(15) N-ethylephedrine.
(16) N-ethylepseudoephedrine.
(17) N-methylephedrine.
(18) N-methylpseudoephedrine.
(19) Norpseudoephedrine.
(20) Phenyl-2-propane.
(21) Phenylacetic acid.
(22) Phenylpropanolamine.
(23) Piperidine.
(24) Piperonal.
(25) Propionic anhydride.
(26) Pseudoephedrine.
(27) Pyrrolidine.
(28) Safrole.
(29) Thionylchloride.

(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

(1),(2) Repealed by Session Laws 1979, c. 760, s. 5.

(3) If any person commits ~~an offense~~ a Class 1 misdemeanor under this Article ~~for which the prescribed punishment includes imprisonment for not more than two years,~~ and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be punished as a Class I ~~felon;~~ felon. The prior conviction used to raise the current offense to a Class I felony shall not be used to calculate the prior record level;

(4) If any person commits ~~an offense under this Article for which the prescribed punishment includes imprisonment for not more than six months~~ a Class 2 misdemeanor, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a ~~misdemeanor and shall be sentenced to a term of imprisonment of not more than two years or fined not more than two thousand dollars ($2,000), or both in the discretion of the court;~~ Class 1 misdemeanor. The prior conviction used to raise the current offense to a Class 1 misdemeanor shall not be used to calculate the prior conviction level;

(5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person under 16 years of age or a pregnant female shall be punished as a Class E felon. Mistake of age is not a defense to a prosecution under this section. It shall not be a defense that the defendant did not know that the recipient was pregnant;

(6) For the purpose of increasing ~~punishment,~~ punishment under G.S. 90-95(e)(3) and (e)(4), previous convictions for offenses shall be counted by the number of separate trials at which final convictions were obtained and not by the number of charges at a single trial;

(7) If any person commits an offense under this Article for which the prescribed punishment requires that any sentence of imprisonment be suspended, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a ~~misdemeanor and shall be sentenced to a term of imprisonment of not more than six months or fined not more than five hundred dollars ($500.00), or both in the discretion of the court;~~ Class 2 misdemeanor;

(8) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for an elementary or secondary school or within 300 feet of the boundary of real property used for an elementary or secondary school shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1). ~~A person sentenced under this subdivision must serve a mandatory term of imprisonment of no less than two years, notwithstanding the provisions of G.S. 90-95(h)(5) or any other law. The sentencing judge may not suspend the mandatory two-year term of imprisonment or place the person on probation for the mandatory two-year term of imprisonment. During that time the prisoner is not eligible for early parole or early release.~~

(9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal institution or local confinement facility shall be guilty of a Class I felony. ~~A person sentenced under this subdivision shall serve a mandatory minimum term of imprisonment of no less than two years for a violation of this~~

~~subdivision which shall run consecutively with and shall commence at the expiration of any sentence already being served by that person. The sentencing judge may not suspend the mandatory minimum two-year term of imprisonment.~~

(f) Any person convicted of an offense or offenses under this Article who is sentenced to an active term of imprisonment that is less than the maximum active term that could have been imposed may, in addition, be sentenced to a term of special probation. Except as indicated in this subsection, the administration of special probation shall be the same as probation. The conditions of special probation shall be fixed in the same manner as probation, and the conditions may include requirements for rehabilitation treatment. Special probation shall follow the active ~~sentence but shall not preclude parole. If parole is granted, special probation shall become effective in place of parole.~~ sentence. No term of special probation shall exceed five years. Special probation may be revoked in the same manner as probation; upon revocation, the original term of imprisonment may be increased by no more than the difference between the active term of imprisonment actually served and the maximum active term that could have been imposed at trial for the offense or offenses for which the person was convicted, and the resulting term of imprisonment need not be diminished by the time spent on special probation. ~~A person whose special probation term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment.~~

(g) Whenever matter is submitted to the North Carolina State Bureau of Investigation Laboratory, the Charlotte, North Carolina, Police Department Laboratory or to the Toxicology Laboratory, Reynolds Health Center, Winston-Salem for chemical analysis to determine if the matter is or contains a controlled substance, the report of that analysis certified to upon a form approved by the Attorney General by the person performing the analysis shall be admissible without further authentication in all proceedings in the district court division of the General Court of Justice as evidence of the identity, nature, and quantity of the matter analyzed.

(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article.

(1) Any person who sells, manufactures, delivers, transports, or possesses in excess of 50 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as 'trafficking in marijuana' and if the quantity of such substance involved:

a. Is in excess of 50 pounds, but less than 100 pounds, such person shall be punished as a Class H felon and

shall be sentenced to a minimum term of ~~at least five years~~ 25 months and a maximum term of 30 months in the State's prison and shall be fined not less than five thousand dollars ($5,000);

b. Is 100 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~at least seven years~~ 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars ($25,000);

c. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~at least 14 years~~ 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

d. Is 10,000 pounds or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of ~~at least 35 years~~ 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars ($200,000).

(2) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of methaqualone, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in methaqualone' and if the quantity of such substance or mixture involved:

a. Is 1,000 or more dosage units, or equivalent quantity, but less than 5,000 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~at least seven years~~ 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars ($25,000);

b. Is 5,000 or more dosage units, or equivalent quantity, but less than 10,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~at least 14 years~~ 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

c. Is 10,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of ~~at least 35 years~~ 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars ($200,000).

(3) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or any coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, and any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocanized coca leaves or any extraction of coca leaves which does not contain cocaine) or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as 'trafficking in cocaine' and if the quantity of such substance or mixture involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~at least seven years~~ 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~at least 14 years~~ 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than one hundred thousand dollars ($100,000);

c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of ~~at least 35 years~~ 175 months and a maximum term of 219 months in the State's prison and shall be fined at least two hundred fifty thousand dollars ($250,000).

(3a) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of amphetamine, its salts, optical isomers, and salts of its optical isomers or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in

amphetamine' and if the quantity of such substance or mixture involved:

a. Is 1,000 or more dosage units, or equivalent quantity, but less than 5,000 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~at least seven years~~ 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars ($25,000);

b. Is 5,000 or more dosage units, or equivalent quantity, but less than 10,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~at least 14 years~~ 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

c. Is 10,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of ~~at least 35 years~~ 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars ($200,000).

(3b) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of methamphetamine shall be guilty of a felony which felony shall be known as 'trafficking in methamphetamine' and if the quantity of such substance or mixture involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~at least seven years~~ 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~at least 14 years~~ 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than one hundred thousand dollars ($100,000);

c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of ~~at least 35 years~~ 175 months and a maximum term of 219 months in the State's prison and

shall be fined at least two hundred fifty thousand dollars ($250,000).

(4) Any person who sells, manufactures, delivers, transports, or possesses four grams or more of opium or opiate, or any salt, compound, derivative, or preparation of opium or opiate (except apomorphine, nalbuphine, analoxone and naltrexone and their respective salts), including heroin, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in opium or heroin' and if the quantity of such controlled substance or mixture involved:

a. Is four grams or more, but less than 14 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~at least 14 years~~ 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

b. Is 14 grams or more, but less than 28 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of ~~at least 18 years~~ 90 months and a maximum term of 120 months in the State's prison and shall be fined not less than one hundred thousand dollars ($100,000);

c. Is 28 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of ~~at least 45 years~~ 225 months and a maximum term of 279 months in the State's prison and shall be fined not less than five hundred thousand dollars ($500,000).

(4a) Any person who sells, manufactures, delivers, transports, or possesses 100 tablets, capsules, or other dosage units, or the equivalent quantity, or more, of Lysergic Acid Diethylamide, or any mixture containing such substance, shall be guilty of a felony, which felony shall be known as 'trafficking in Lysergic Acid Diethylamide'. If the quantity of such substance or mixture involved:

a. Is 100 or more dosage units, or equivalent quantity, but less than 500 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~at least seven years~~ 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars ($25,000);

b. Is 500 or more dosage units, or equivalent quantity, but less than 1,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~at least 14 years~~ 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

c. Is 1,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of ~~at least 35 years~~ 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars ($200,000).

(5) Except as provided in this subdivision, a person being sentenced under this subsection may not receive a suspended sentence or be placed on probation. ~~A person sentenced under this subsection as a committed youthful offender shall be eligible for release or parole no earlier than that person would have been had he been sentenced under this subsection as a regular offender.~~ The sentencing judge may reduce the fine, or impose a prison term less than the applicable minimum prison term provided by this subsection, or suspend the prison term imposed and place a person on probation when such person has, to the best of his knowledge, provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals if the sentencing judge enters in the record a finding that the person to be sentenced has rendered such substantial assistance.

(6) Sentences imposed pursuant to this subsection shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder.

(i) The penalties provided in subsection (h) of this section shall also apply to any person who is convicted of conspiracy to commit any of the offenses described in subsection (h) of this section."

Sec. 31. G.S. 148-4.1 is amended by adding a new subsection to read:

"(h) A person sentenced under Article 81B of Chapter 15A shall not be released pursuant to this section."

Sec. 32. G.S. 148-13 reads as rewritten:

"*§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.*

(a) The Secretary of Correction may issue regulations regarding the grades of custody in which State prisoners are kept, the privileges and restrictions applicable to each custody grade, and the amount of cash, clothing, etc., to be awarded to State prisoners after their discharge or parole. The amount of cash awarded to a prisoner upon discharge or parole after being incarcerated for two years or longer shall be at least forty-five dollars ($45.00).

(a1) The Secretary of Correction shall adopt rules to specify the rates at, and circumstances under, which earned time authorized by G.S. 15A-1340.13(d) and G.S. 15A-1340.20(d) may be earned or forfeited by persons serving activated sentences of imprisonment for felony or misdemeanor convictions.

(b) With respect to prisoners who are serving prison or jail terms for impaired driving offenses ~~not subject to Article 81A of Chapter 15A of the General Statutes and prisoners serving a life term for a Class C felony~~ under G.S. 20-138.1, the Secretary of Correction may, in his discretion, issue regulations regarding deductions of time from the terms of such prisoners for good behavior, meritorious conduct, work or study, participation in rehabilitation programs, and the like.

~~(c) With respect to all prisoners serving prison or jail terms for felonies that occurred on or after the effective date of Article 81A of Chapter 15A of the General Statutes, the Secretary of Correction and local jail administrators must grant credit toward their terms for good behavior as required by G.S. 15A-1340.7. The provisions of this subsection shall not apply to persons convicted of Class A or Class B felonies or persons sentenced to a life term for a Class C felony.~~

~~(d) With respect to prisoners serving prison or jail terms for felonies that occurred on or after the effective date of Article 81A of Chapter 15A, the Secretary of Correction shall issue regulations authorizing gain time credit to be deducted from the terms of such prisoners, in addition to the good behavior credit authorized by G.S. 15A-1340.7. Gain time credit may be granted for meritorious conduct and shall be granted for performance of regular work and regular participation in study, training, work release, and other rehabilitative programs inside or outside the prison or jail. Gain time credit earned pursuant to regulations issued under this subsection shall not be subject to forfeiture for misconduct. Gain time shall be administered to qualified prisoners as follows:~~

~~(1) Gain Time I. In addition to the good behavior credit authorized by G.S. 15A-1340.7, prisoners who perform work assignments requiring at least four hours of actual work per day, and prisoners who participate in study, training, or other rehabilitative programs requiring at least~~

~~four hours of productive activity per day, shall receive gain time credit at the rate of two days per month.~~

~~(2) Gain Time II. In addition to the good behavior credit authorized by G.S. 15A-1340.7, prisoners who perform work assignments requiring at least six hours of actual work per day, prisoners who perform in part-time work release programs, and prisoners who participate in study, training, or other rehabilitative programs requiring at least six hours of productive activity per day, shall receive gain time credit at the rate of four days per month.~~

~~(3) Gain Time III. In addition to the good behavior credit authorized by G.S. 15A-1340.7, prisoners who perform work assignments requiring special skills or special responsibilities and requiring at least six hours of actual work per day, prisoners who perform in full-time work release programs, and prisoners who participate in full-time study, training, or other rehabilitative programs shall receive gain time credit at the rate of six days per month.~~

~~The Secretary of Correction may, in his discretion, grant gain time credit at a rate greater than the rates specified in this subsection for meritorious conduct or emergency work performed, provided, however, that gain time granted for emergency work performed shall not exceed 30 days per month, nor shall gain time granted for meritorious conduct exceed 30 days for each act of meritorious conduct.~~

(e) The Secretary's regulations concerning ~~time deductions~~ earned time credits authorized by this section ~~and his regulations concerning prisoner conduct issued pursuant to G.S. 15A-1340.7~~ shall be distributed to and followed by local jail administrators with regard to sentenced jail prisoners.

(f) The provisions of this section do not apply to persons sentenced to a term of special probation under G.S. 15A-1344(e) or ~~G.S. 15A-1351(a) or to persons convicted pursuant to G.S. 130A-25 of failing to obtain the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A or of violating G.S. 130A-144(f) or G.S. 130A-145.~~ G.S. 15A-1351(a)."

Sec. 33. G.S. 148-32.1 reads as rewritten:

"*§ 148-32.1. Local confinement, costs, alternate facilities, parole, work release.*

(a) The Department of Correction shall pay each local confinement facility a standard sum set by the General Assembly in its appropriation acts at a per day, per inmate rate, for the cost of providing food, clothing, personal items, supervision and necessary ordinary medical services to those inmates committed to the custody of

the local confinement facility to serve sentences of 30 days or more. This reimbursement shall not include any period of detention prior to actual commitment by the sentencing court. The Department shall also pay to the local confinement facility extraordinary medical expenses incurred for the inmates, defined as follows:

(1) Medical expenses incurred as a result of providing health care to an inmate as an inpatient (hospitalized);

(2) Other medical expenses when the total cost exceeds thirty-five dollars ($35.00) per occurrence or illness as a result of providing health care to an inmate as an outpatient (nonhospitalized); and

(3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the inmate is incarcerated, provided the inmate was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the Department is obtained by the local facility.

(b) In the event that the custodian of the local confinement facility certifies in writing to the clerk of the superior court in the county in which said local confinement facility is located that the local confinement facility is filled to capacity, or that the facility cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221, any judge of the district court in the district court district as defined in G.S. 7A-133 where the facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the facility is located may order that the prisoner be transferred to any other qualified local confinement facility within that district or within another such district where space is available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the prisoner is a non-violent misdemeanant, which local facility shall accept the transferred prisoner, if the prison population has exceeded the limits established in G.S. 148-4.1(d). If no such local confinement facility is available, then any such judge may order the prisoner transferred to such camp or facility as the proper authorities of the Department of Correction shall designate, notwithstanding that the term of imprisonment of the prisoner is 180 days or less. In no event, however, shall a prisoner whose term of imprisonment is less than 30 days be assigned or ordered transferred to any such camp or facility.

(c) When a prisoner sentenced for a conviction of impaired driving under G.S. 20-138.1 is assigned to a local confinement facility pursuant to this section, the clerk of the superior court in the county in which the sentence was imposed shall immediately forward a copy of the commitment order to the ~~Parole Commission~~ Post-Release Supervision and Parole Commission so that the prisoner will be eligible for parole pursuant to G.S. 15A-1371.

(d) When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to a recommendation of the sentencing court, the custodian of the facility shall forward the prisoner's work-release earnings to the Department of Correction, which shall disburse the earnings as determined under G.S. 148-33.1(f). When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to an order of the sentencing court, the custodian of the facility shall forward the prisoner's work-release earnings to the clerk of the court that sentenced the prisoner or to the Department of Correction, as provided in the prisoner's commitment order. The clerk or the Department, as appropriate, shall disburse the earnings as provided in the prisoner's commitment order. Upon agreement between the Department of Correction and the custodian of the local confinement facility, however, the clerk may disburse to the local confinement facility the amount of the earnings to be paid for the cost of the prisoner's keep, and that amount shall be set off against the reimbursement to be paid by the Department to the local confinement facility pursuant to G.S. 148-32.1(a).

(e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving under G.S. 20-138.1 into a local confinement facility pursuant to this section, the custodian of the local confinement facility shall forward to the ~~Parole Commission~~ Post-Release Supervision and Parole Commission information pertaining to the prisoner so as to make him eligible for parole consideration pursuant to G.S. 15A-1371. Such information shall include date of incarceration, jail credit, and such other information as may be required by the ~~Parole Commission~~ Post-Release Supervision and Parole Commission. The ~~Parole Commission~~ Post-Release Supervision and Parole Commission shall approve a form upon which the custodian shall furnish this information, which form will be provided to the custodian by the Department of Correction."

Sec. 34. Article 3B of Chapter 148 of the General Statutes, Facilities and Programs for Youthful Offenders, is repealed.

Sec. 35. G.S. 7A-273(1) reads as rewritten:

"(1) In ~~misdemeanor or~~ infraction cases, in which the maximum penalty that can be imposed is not more than

fifty dollars ($50.00), exclusive of costs, or in Class 3 misdemeanors other than the types of offenses specified in subdivision (2) of this section, ~~in which the maximum punishment which can be adjudged cannot exceed imprisonment for 30 days, or a fine of fifty dollars ($50.00) or a penalty of not more than fifty dollars ($50.00), exclusive of costs,~~ to accept guilty pleas or admissions of responsibility and enter judgment;".

Sec. 36. G.S. 162-60 reads as rewritten:

"*§ 162-60. Reduction in sentence allowed for work.*

In addition to any ~~gain~~ earned time credit ~~to which he is otherwise entitled~~ a prisoner may be awarded under G.S. 15A-1340.20, a prisoner who has faithfully performed the duties assigned to him pursuant to G.S. 162-58 is entitled to a reduction in his sentence of four days for each 30 days of work performed. The person having custody of the prisoner, as defined in G.S. 162-59, shall be the sole judge as to whether the prisoner has faithfully performed his duties. A prisoner who escapes or attempts to escape while performing work pursuant to G.S. 162-58 shall forfeit any reduction in sentence that he would have been entitled to under this section."

Sec. 37. G.S. 15A-1352 reads as rewritten:

"*§ 15A-1352. Commitment to Department of Correction or local confinement facility.*

(a) A person sentenced to imprisonment for a misdemeanor under this Article or for nonpayment of a fine under Article 84 of this Chapter shall be committed for the term designated by the court to the custody of the Department of Correction or to a local confinement facility. If the sentence imposed for a misdemeanor is for a period of ~~180~~ 90 days or less, the commitment must be to a facility other than one maintained by the Department of Correction, except as provided in G.S. 148-32.1(b).

If a person is sentenced to imprisonment for a misdemeanor under this Article or for nonpayment of a fine under Article 84 of this Chapter, the sentencing judge shall make a finding of fact as to whether the person would be suitable for placement in a county satellite jail/work release unit operated pursuant to G.S. 153A-230.3. If the sentencing judge makes a finding of fact that the person would be suitable for placement in a county satellite jail/work release unit and the person meets the requirements listed in G.S. 153A-230.3(a)(1), then the custodian of the local confinement facility may transfer the misdemeanant to a county satellite jail/work release unit.

(b) A person sentenced to imprisonment for a felony under this Article shall be committed for the term designated by the court to the custody of the Department of Correction; except that, upon request of

the sheriff or the board of commissioners of a county, the presiding judge may, in his discretion, sentence the person to a local confinement facility in that county.

(c) A person sentenced to imprisonment for nonpayment of a fine under Article 84, Fines, shall be committed for the term designated by the court:

(1) To the custody of the Department of Correction if the person was fined for conviction of a felony;

(2) To the custody of the Department of Correction or to a local confinement facility if the person was fined for conviction of a misdemeanor, provided that if the sentence imposed is for a period of ~~180~~ 90 days or less, the commitment shall be to a facility other than one maintained by the Department of Correction, except as provided in G.S. 148-32.1(b).

(d) Notwithstanding any other provision of law, when the sentencing court, with the consent of the person sentenced, orders that a person convicted of a misdemeanor be granted work release, the court may commit the person to a specific prison facility or local confinement facility or satellite jail/work release unit within the county of the sentencing court in order to facilitate the work release arrangement. When appropriate to facilitate the work release arrangement, the sentencing court may, with the consent of the sheriff or board of commissioners, commit the person to a specific local confinement facility or satellite jail/work release unit in another county, or, with the consent of the Department of Correction, commit the person to a specific prison facility in another county. The Department of Correction may transfer a prisoner committed to a specific prison facility to a different facility when necessary to alleviate overcrowding or for other administrative purposes."

Sec. 38. G.S. 15A-1373 reads as rewritten:

"§ *15A-1373. Incidents of parole.*

(a) Conditionality of Parole. -- Unless terminated sooner as provided in subsection (b), parole remains conditional and subject to revocation.

(b) Early Termination. -- The ~~Parole Commission~~ Post-Release Supervision and Parole Commission may terminate a period of parole and discharge the parolee at any time after the expiration of one year of successful parole if warranted by the conduct of the parolee and the ends of justice.

(c) Modification of Conditions. -- The ~~Parole Commission~~ Post-Release Supervision and Parole Commission may for good cause shown modify the conditions of parole at any time prior to the expiration or termination of the period for which the parole remains conditional.

(d) Effect of Violation. -- If the parolee violates a condition at any time prior to the expiration or termination of the period, the Commission may continue him on the existing parole, with or without modifying the conditions, or, if continuation or modification is not appropriate, may revoke the parole as provided in G.S. 15A-1376 and reimprison the parolee for a term consistent with the following requirements:

(1) The time the parolee was at liberty on parole and in compliance with all terms and conditions of that parole shall be credited on a day-for-day basis against the maximum term of imprisonment imposed by the court under G.S. 15A-1351, except that the parolee shall receive no credit for the last six months of his parole.

(2) The prisoner must be given credit against the term of reimprisonment for all time spent in custody as a result of revocation proceedings under G.S. 15A-1376.

(e) Re-parole. -- A prisoner who has been reimprisoned following parole may be re-paroled by the ~~Parole Commission~~ Post-Release Supervision and Parole Commission subject to the provisions which govern initial parole. In the event that a defendant serves the final six months of his maximum imprisonment as a result of being recommitted for violation of parole, he may not be required to serve a further period on parole.

(f) Timing of Revocation. -- The ~~Parole Commission~~ Post-Release Supervision and Parole Commission may revoke parole for violation of a condition during the period of parole. The Commission also may revoke following the period of parole if:

(1) Before the expiration of the period of parole, the Commission has recorded its intent to conduct a revocation hearing, and

(2) The Commission finds that every reasonable effort has been made to notify the parolee and conduct the hearing earlier."

Sec. 39. G.S. 15A-1374(a) reads as rewritten:

"(a) In General. -- The ~~Parole Commission~~ Post-Release Supervision and Parole Commission may in its discretion impose conditions of parole it believes reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him to do so. The Commission must provide as an express condition of every parole that the parolee not commit another crime during the period for which the parole remains subject to revocation. When the Commission releases a person on parole, it must give him a written statement of the conditions on which he is being released."

Sec. 40. G.S. 15A-1376 reads as rewritten:

"*§ 15A-1376. Arrest and hearing on parole violation.*

(a) Arrest for Violation of Parole. -- A parolee is subject to arrest by a law-enforcement officer or a parole officer for violation of conditions of parole only upon the issuance of an order of temporary or conditional revocation of parole by the ~~Parole Commission~~ Post-Release Supervision and Parole Commission. However, a parole revocation hearing under subsection (e) may be held without first arresting the parolee.

(b) When and Where Preliminary Hearing on Parole Violation Required. -- Unless the hearing required by subsection (e) is first held or the parolee waives the hearing or a continuance is requested by the parolee, a preliminary hearing on parole violation must be held reasonably near the place of the alleged violation or arrest and within seven working days of the arrest of a parolee to determine whether there is probable cause to believe that he violated a condition of parole. Otherwise, the parolee must be released seven working days after his arrest to continue on parole pending a hearing. If the parolee is not within the State, his preliminary hearing is as prescribed by G.S. 148-65.1A.

(c) Officers to Conduct Hearing. -- The preliminary hearing on parole violation must be conducted by a judicial official, or by a hearing officer designated by the ~~Parole Commission~~ Post-Release Supervision and Parole Commission. No person employed by the Department of Correction may serve as a hearing officer at a hearing provided in this section unless he is a member of the ~~Parole Commission~~ Post-Release Supervision and Parole Commission or is employed solely as a hearing officer.

(d) Procedure for Preliminary Hearing on Parole Violation. -- The Department of Correction must give the parolee notice of the preliminary hearing and its purpose, including a statement of the violations alleged. At the hearing, the parolee may appear and speak in his own behalf, may present relevant information, and may, on request, personally question witnesses and adverse informants, unless the hearing officer finds good cause for not allowing confrontation. If the person holding the hearing determines there is probable cause to believe the parolee violated his parole, he must summarize the reasons for his determination and the evidence he relied on. Formal rules of evidence do not apply at the hearing. If probable cause is found, the parolee may be held in the custody of the Department of Correction to serve the appropriate term of imprisonment, subject to the outcome of a revocation hearing under subsection (e).

(e) Revocation Hearing. -- Before finally revoking parole, the ~~Parole Commission~~ Post-Release Supervision and Parole Commission must, unless the parolee waived the hearing or the time limit, provide a hearing within 45 days of the parolee's reconfinement to determine

whether to revoke parole finally. The ~~Parole Commission~~ Post-Release Supervision and Parole Commission must adopt regulations governing the hearing and must file and publish them as provided in Article 5 of Chapter 150B of the General Statutes."

Sec. 41. G.S. 143B-264 reads as rewritten:

"*§ 143B-264. Department of Correction -- organization.*

The Department of Correction shall be organized initially to include the ~~Parole Commission~~ Post-Release Supervision and Parole Commission, the Board of Correction, the Division of Prisons, the Division of Youth Development, the Division of Adult Probation and Parole, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

The Department shall establish a Substance Abuse Program. All substance abuse programs established or in existence shall be administered by the Department of Correction under the Substance Abuse Program."

Sec. 42. G.S. 143B-266 reads as rewritten:

"*§ 143B-266. ~~Parole Commission~~ Post-Release Supervision and Parole Commission -- creation, powers and duties.*

(a) There is hereby created a ~~Parole Commission~~ Post-Release Supervision and Parole Commission of the Department of Correction with the authority to grant paroles, including both regular and temporary paroles, to persons held by virtue of any final order or judgment of any court of this State as provided in Chapter 148 of the General Statutes and laws of the State of North Carolina, except that for persons sentenced under Article 81B of Chapter 15A of the General Statutes, only those sentenced to life imprisonment are eligible for parole. The Commission shall also have authority to revoke, terminate, and suspend paroles of such persons (including persons placed on parole on or before the effective date of the Executive Organization Act of 1973) and to assist the Governor in exercising his authority in granting reprieves, commutations, and pardons, and shall perform such other services as may be required by the Governor in exercising his powers of executive clemency. The Commission shall also have authority to revoke and terminate persons on post-release supervision, as provided in Article 84A of Chapter 15A of the General Statutes.

(b) All releasing authority previously resting in the Commissioner and Commission of Correction with the exception of authority for extension of the limits of the place of confinement of a prisoner contained in G.S. 148-4 is hereby transferred to the ~~Parole Commission~~ Post-Release Supervision and Parole Commission. Specifically, such releasing authority includes work release (G.S. 148-33.1), indeterminate-sentence release (G.S. 148-42), and release

of youthful offenders (G.S. 148-49.8), provided the individual considered for work release or indeterminate-sentence release shall have been recommended for release by the Secretary of Correction or his designee.

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, in accordance with which prisoners eligible for parole consideration may have their cases reviewed and investigated and by which such proceedings may be initiated and considered. All rules and regulations heretofore adopted by the Board of Paroles shall remain in full force and effect unless and until repealed or superseded by action of the ~~Parole Commission~~ Post-Release Supervision and Parole Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Correction.

(d) The Commission is authorized and empowered to impose as a condition of parole or post-release supervision that restitution or reparation be made by the prisoner in accordance with the provisions of G.S. 148-57.1. The Commission is further authorized and empowered to make restitution or reparation a condition of work release in accordance with the provisions of G.S. 148-33.2."

Sec. 43. G.S. 143B-267 reads as rewritten:

"*§ 143B-267. ~~Parole Commission~~ Post-Release Supervision and Parole Commission -- members; selection; removal; chairman; compensation; quorum; services.*

The ~~Parole Commission~~ Post-Release Supervision and Parole Commission shall consist of five full-time members. The five full-time members shall be appointed by the Governor from persons whose recognized ability, training, experience, and character qualify them for service on the Commission. The terms of office of the five members presently serving on the Commission shall expire on June 30, 1977. Thereafter, the terms of office of persons appointed by the Governor as members of the Commission shall be for four years or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, removal, death or disability of a full-time member shall be for the balance of the unexpired term only.

The Governor shall have the authority to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of G.S. 143B-13. The Governor shall designate a full-time member of the Commission to serve as chairman of the Commission at the pleasure of the Governor.

With regard to the transaction of the business of the Commission the following procedure shall be followed: The chairman shall designate panels of two voting commission members and shall

designate a third commissioner to serve as an alternate member of a panel. Insofar as practicable, the chairman shall assign the members to panels in such fashion that each commissioner sits a substantially equal number of times with each other commissioner. Whenever any matter of business, such as the granting, denying, revoking or rescinding of parole, or the authorization of work-release privileges to a prisoner, shall come before the Commission for consideration and action, the chairman shall refer such matter to a panel. Action may be taken by concurring vote of the two sitting panel members. If there is not a concurring vote of the two panel members, the matter will be referred to the alternate member who shall cast the deciding vote. However, no person serving a sentence of life imprisonment shall be granted parole or work-release privileges except by majority vote of the full commission.

The full-time members of the Commission shall receive the salary fixed by the General Assembly in the Current Operations Appropriations Act and shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-6.

All clerical and other services required by the Commission shall be supplied by the Secretary of Correction."

Sec. 44. G.S. 148-52.1 reads as rewritten:

"§ *148-52.1. Prohibited political activities of member of ~~Parole Commission~~ Post-Release Supervision and Parole Commission.*

No member of the ~~Parole Commission~~ Post-Release Supervision and Parole Commission shall be permitted to use his position to influence elections or the political action of any person, serve as a member of the campaign committee of any political party, interfere with or participate in the preparation for any election or the conduct thereof at the polling place, or be in any manner concerned in the demanding, soliciting or receiving of any assessments, subscriptions or contributions, whether voluntary or involuntary, to any political party. Any ~~Parole Commission~~ Post-Release Supervision and Parole Commission member who shall violate any of the provisions of this section shall be subject to dismissal from office."

Sec. 45. G.S. 148-53 reads as rewritten:

"§ *148-53. Investigators and investigations of cases of prisoners.*

For the purpose of investigating the cases of prisoners, the Department of Correction is hereby authorized and empowered to appoint an adequate staff of competent investigators, particularly qualified for such work, with such reasonable clerical assistance as may be required, who shall, under the rules and regulations duly adopted by the Post-Release Supervision and Parole Commission, investigate all cases designated by it, investigate cases of prisoners eligible for post-release supervision, and otherwise aid the

Commission in passing upon the question of the parole and post-release supervision of prisoners, to the end that every prisoner in the custodial care of the State may receive full, fair, and just consideration."

Sec. 46. G.S. 148-54 reads as rewritten:

"*§ 148-54. Parole and post-release supervision supervisors provided for; duties.*

The Department of Correction is hereby authorized to appoint a sufficient number of competent parole and post-release supervision supervisors, who shall be particularly qualified for and adapted for the work required of them, and who shall under the direction of the Department of Correction, and under regulations prescribed by the Department of Correction after consultation with the Commission, exercise supervision and authority over paroled prisoners and persons on post-release supervision, assist paroled prisoners and persons on post-release supervision, and those who are to be paroled or released for post-release supervision in finding and retaining self-supporting employment, and to promote rehabilitation work with paroled and post-release supervised prisoners, to the end that they may become law-abiding citizens. The supervisors shall also, under the direction of the Department of Correction, maintain frequent contact with paroled and post-release supervised prisoners and find out whether or not they are observing the conditions of their paroles or post-release supervision, and assist them in every possible way toward compliance with the conditions, and they shall perform such other duties in connection with paroled prisoners as the Department of Correction may require. The number of supervisors may be increased by the Department of Correction as and when the number of paroled and post-release supervised prisoners to be supervised requires or justifies such increase."

Sec. 47. G.S. 148-56 reads as rewritten:

"*§ 148-56. Assistance in supervision of parolees or post-release supervisees and preparation of case histories.*

Upon request by the ~~Parole Commission~~ Post-Release Supervision and Parole Commission, the county directors of social services shall assist in the supervision of parolees and shall prepare and submit to the ~~Parole Commission~~ Post-Release Supervision and Parole Commission case histories or other information in connection with any case under consideration for parole or some form of executive clemency."

Sec. 48. G.S. 148-57 reads as rewritten:

"*§ 148-57. Rules and regulations for parole consideration.*

The ~~Parole Commission~~ Post-Release Supervision and Parole Commission is hereby authorized and empowered to set up and

establish rules and regulations in accordance with which prisoners eligible for parole consideration may have their cases reviewed and by which such proceedings may be initiated and considered. That the rules and regulations shall include but not be limited to, a plan whereby the ~~Parole Commission~~ Post-Release Supervision and Parole Commission of a prisoner to a plan approved by the Secretary of the Department of Correction."

Sec. 49. G.S. 148-57.1 reads as rewritten:

"§ *148-57.1. Restitution as a condition of parole or post-release supervision.*

(a) Repealed by Session Laws 1985, c. 474, s. 5.

(b) As a rehabilitative measure, the ~~Parole Commission~~ Post-Release Supervision and Parole Commission is authorized to require a prisoner to whom parole or post-release supervision is granted to make restitution or reparation to an aggrieved party as a condition of parole or post-release supervision when the sentencing court recommends that restitution or reparation to an aggrieved party be made a condition of any parole or post-release supervision granted the defendant. When imposing restitution as a condition and setting up a payment schedule for the restitution, the ~~Parole Commission~~ Post-Release Supervision and Parole Commission shall take into consideration the resources of the defendant, including all real and personal property owned by the defendant and the income derived from such property, his ability to earn, and his obligation to support dependents. The ~~Parole Commission~~ Post-Release Supervision and Parole Commission shall not be bound by such recommendation, but if it elects not to implement the recommendation, it shall state in writing the reasons therefor, and shall forward the same to the sentencing court.

(c) When an active sentence is imposed, the court shall consider whether, as a rehabilitative measure, it should recommend to the ~~Parole Commission~~ Post-Release Supervision and Parole Commission that restitution or reparation by the defendant be made a condition of any parole or post-release supervision granted the defendant. If the court determines that restitution or reparation should not be recommended, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be recommended, the court shall make its recommendation a part of the order committing the defendant to custody. The recommendation shall be in accordance with the applicable provisions of G.S. 15A-1343(d). The Administrative Office of the Courts shall prepare and distribute forms which provide ample space to make restitution or reparation recommendations incident to commitments, which forms shall be conveniently structured to enable the sentencing court to make its recommendation.

If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court may order, as a condition of parole or post-release supervision, that the defendant pay the cost of any rehabilitative treatment for the minor.

(d) The ~~Parole Commission~~ Post-Release Supervision and Parole Commission shall establish rules and regulations to implement this section, which shall include adequate notice to the prisoner that the payment of restitution or reparation by the prisoner is being considered as a condition of any parole or post-release supervision granted the prisoner, and opportunity for the prisoner to be heard. Such rules and regulations shall also provide additional methods whereby facts may be obtained to supplement the recommendation of the sentencing court."

Sec. 50. G.S. 148-59 reads as rewritten:

"*§ 148-59. Duties of clerks of superior courts as to commitments; statements filed with Department of Correction.*

The several clerks of the superior courts shall attach to the commitment of each prisoner sentenced in such courts a statement furnishing such information as the ~~Parole Commission~~ Post-Release Supervision and Parole Commission shall by regulations prescribe, which information shall contain, among other things, the following:

(1) The court in which the prisoner was tried;
(2) The name of the prisoner and of all codefendants;
(3) The date or session when the prisoner was tried;
(4) The offense with which the prisoner was charged and the offense for which convicted;
(5) The judgment of the court and the date of the beginning of the sentence;
(6) The name and address of the presiding judge;
(7) The name and address of the prosecuting solicitor;
(8) The name and address of private prosecuting attorney, if any;
(9) The name and address of the arresting officer; and
(10) All available information of the previous criminal record of the prisoner.

The prison authorities receiving the prisoner for the beginning of the service of sentence shall detach from the commitment the statement furnishing such information and forward it to the Department of Correction, together with any additional information in the possession of such prison authorities relating to the previous criminal record of such prisoner, and the information thus furnished shall constitute the foundation and file of the prisoner's case. Forms for furnishing the information required by this section shall, upon

request, be furnished to the said clerks by the State Department of Correction without charge."

Sec. 51. G.S. 148-60.1 reads as rewritten:

"*§ 148-60.1. Allowances for paroled prisoner and prisoner on post-release supervision.*

Upon the release of any prisoner upon parole or post-release supervision, the superintendent or warden of the institution shall provide the prisoner with suitable clothing and, if needed, an amount of money sufficient to purchase transportation to the place within the State where the prisoner is to reside. The ~~Parole Commission~~ Post-Release Supervision and Parole Commission may, in its discretion, provide that the prisoner shall upon his release on parole or post-release supervision receive a sum of money of at least forty-five dollars ($45.00)."

Sec. 52. G.S. 148-62.1 reads as rewritten:

"*§ 148-62.1. ~~Entitlement of indigent parolee to counsel, in discretion of Board of Paroles, at revocation hearings.~~ Entitlement of indigent parolee and post-release supervisee to counsel, in discretion of Post-Release Supervision and Parole Commission.*

Any parolee or post-release supervisee who is an indigent under the terms of G.S. 7A-450(a) may be determined entitled, in the discretion of the ~~North Carolina Board of Paroles~~ Post-Release Supervision and Parole Commission, to the services of counsel at State expense at a parole revocation hearing at which either:

(1) The parolee or post-release supervisee claims not to have committed the alleged violation of the parole or post-release supervision conditions; or

(2) The parolee or post-release supervisee claims there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, even if the violation is a matter of public record or is uncontested, and that the reasons are complex or otherwise difficult to develop or present; or

(3) The parolee or post-release supervisee is incapable of speaking effectively for himself; and where the ~~Board~~ Commission feels, on a case by case basis, that such appointment in accordance with either (1), (2) or (3) above is necessary for fundamental fairness."

Sec. 53. G.S. 148-63 reads as rewritten:

"*§ 148-63. Arrest powers of police officers.*

Any officer who is authorized to make arrests of fugitives from justice shall have full authority and power to arrest any parolee whose parole has been revoked or any post-release supervisee who has been revoked."

Sec. 54. G.S. 148-64 reads as rewritten:

"*§ 148-64. Cooperation of prison and parole officials and employees.*

The officials and employees of the Department of Correction and the ~~[Parole Commission]~~ Post-Release Supervision and Parole Commission shall at all times cooperate with and furnish each other such information and assistance as will promote the purposes of this Chapter and the purposes for which these agencies were established. The ~~Parole~~ Commission shall have free access to all prisoners."

Sec. 55. G.S. 148-65.3 reads as rewritten:

"*§ 148-65.3. North Carolina sentence to be served in another jurisdiction.*

The ~~Parole Commission~~ Post-Release Supervision and Parole Commission, with the concurrence of the Secretary of Correction, may direct that the balance of any sentence imposed by the courts of this State shall be served concurrently with a sentence or sentences in another state or federal institution, and may effect a transfer of custody of such individual to the other jurisdiction for such purpose. In the event the individual's sentence liability in the other jurisdiction terminates prior to the expiration of his North Carolina sentence, the individual shall be either paroled (if eligible) or returned to the prison department of this State, in the discretion of the ~~Parole Commission~~ Post-Release Supervision and Parole Commission."

Sec. 56. This act becomes effective January 1, 1995, and applies only to offenses occurring on or after that date. Prosecutions for, or sentences based on, offenses occurring before the effective date of this act are not abated or affected by the repeal or amendment in this act of any statute, and the statutes that would be applicable to those prosecutions or sentences but for the provisions of this act remain applicable to those prosecutions or sentences.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 278 **CHAPTER 539**

AN ACT TO CLASSIFY MISDEMEANORS AND TO RECLASSIFY SOME FELONIES AS RECOMMENDED BY THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION.

The General Assembly of North Carolina enacts:

PART 1. -- MISDEMEANORS

-----FAILURE TO GIVE INFORMATION ABOUT CORPORATION

Section 1. G.S. 1-324.5 reads as rewritten:

"§ *1-324.5. Violations of three preceding sections misdemeanor.*

If any agent or person having charge or control of any property of a corporation, or any clerk, cashier, or other officer of a corporation, who has at the time the custody of the books of the company, or if any agent or person having custody of any evidence of debt due to a corporation, shall, on request of a public officer having in his hands for service an execution against the said corporation, willfully refuse to give to such officer the names of the directors and officers thereof, and a schedule of all its property, including debts due or to become due, or shall willfully refuse to give to such officer a certificate of the number of shares, or amount of interest held by such corporation in any other corporation, or shall willfully refuse to deliver to such officer any evidence of indebtedness due or to become due to such corporation, he shall be guilty of a Class 1 misdemeanor."

-----REFUSAL TO SURRENDER OFFICIAL PAPERS

Sec. 2. G.S. 1-531 reads as rewritten:

"§ *1-531. Refusal to surrender official papers misdemeanor.*

If a person against whom a judgment has been rendered in an action brought to recover a public office shall fail or refuse to turn over, on demand, to the person adjudged to be entitled to such office, all papers, documents and books belonging to such office, he shall be guilty of a Class 1 misdemeanor."

-----CHARGES FOR LEGAL ADVERTISING

Sec. 3. G.S. 1-596 reads as rewritten:

"§ *1-596. Charges for legal advertising.*

The publication of all advertising required by law to be made in newspapers in this State shall be paid for at not to exceed the local commercial rate of the newspapers selected. Any public or municipal officer or board created by or existing under the laws of this State that is now or may hereafter be authorized by law to enter into contracts for the publication of legal advertisements is hereby authorized to pay therefor prices not exceeding said rates.

No newspaper in this State shall accept or print any legal advertising until said newspaper shall have first filed with the clerk of the superior court of the county in which it is published a sworn statement of its current commercial rate for the several classes of advertising regularly carried by said publication, and any owner or manager of a newspaper violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

-----INVESTMENT OF FUNDS HELD BY CLERK

Sec. 4. G.S. 7A-112(d) reads as rewritten:

"(d) It shall be unlawful for the clerk of the superior court of any county receiving any money by virtue or color of his office to apply or invest any of it except as authorized under this section. Any clerk

violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

-----NONTESTIMONIAL IDENTIFICATION PROCEDURES

Sec. 5. G.S. 7A-602 reads as rewritten:

"§ *7A-602. Penalty for willful violation.*

Any person who willfully violates provisions of this Article which prohibit conducting nontestimonial identification procedures without an order issued by a judge shall be guilty of a Class 1 misdemeanor."

-----NOTARIAL ACTS

Sec. 6. G.S. 10A-12(a) reads as rewritten:

"(a) Any person who holds himself or herself out to the public as a notary or who performs notarial acts and is not commissioned is guilty of a ~~misdemeanor and is punishable by a fine, imprisonment, or both, in the discretion of the court,~~ Class 1 misdemeanor."

Sec. 7. G.S. 10A-12(b) reads as rewritten:

"(b) Any notary who takes an acknowledgment or performs a verification or proof without personal knowledge of the signer's identity or without satisfactory evidence of the signer's identity is guilty of a ~~misdemeanor and is punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment not to exceed 60 days, or both,~~ Class 2 misdemeanor."

Sec. 8. G.S. 10A-12(d) reads as rewritten:

"(d) Any person who knowingly solicits or coerces a notary to commit official misconduct is guilty of a ~~misdemeanor and is punishable by a fine, imprisonment, or both, in the discretion of the court,~~ Class 1 misdemeanor."

-----GENERAL

Sec. 9. G.S. 14-4(a) reads as rewritten:

"(a) Except as provided in subsection (b), if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars ~~($500.00), or imprisoned for not more than 30 days.~~ ($500.00). No fine shall exceed fifty dollars ($50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars ($50.00)."

-----SECRET POLITICAL AND MILITARY ORGANIZATIONS FORBIDDEN

Sec. 10. G.S. 14-10 reads as rewritten:

"§ *14-10. Secret political and military organizations forbidden.*

If any person, for the purpose of compassing or furthering any political object, or aiding the success of any political party or organization, or resisting the laws, shall join or in any way connect or unite himself with any oath-bound secret political or military

organization, society or association of whatsoever name or character; or shall form or organize or combine and agree with any other person or persons to form or organize any such organization; or as a member of any secret political or military party or organization shall use, or agree to use, any certain signs or grips or passwords, or any disguise of the person or voice, or any disguise whatsoever for the advancement of its object, and shall take or administer any extrajudicial oath or other secret, solemn pledge, or any like secret means; or if any two or more persons, for the purpose of compassing or furthering any political object, or aiding the success of any political party or organization, or circumventing the laws, shall secretly assemble, combine or agree together, and the more effectually to accomplish such purposes, or any of them, shall use any certain signs, or grips, or passwords, or any disguise of the person or voice, or other disguise whatsoever, or shall take or administer any extrajudicial oath or other secret, solemn pledge; or if any persons shall band together and assemble to muster, drill or practice any military evolutions except by virtue of the authority of an officer recognized by law, or of an instructor in institutions or schools in which such evolutions form a part of the course of instruction; or if any person shall knowingly permit any of the acts and things herein forbidden to be had, done or performed on his premises, or on any premises under his control; or if any person being a member of any such secret political or military organization shall not at once abandon the same and separate himself entirely therefrom, every person so offending shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall be fined not less than ten ($10.00) nor more than two hundred dollars ($200.00), or be imprisoned, or both, at the discretion of the court.~~"

-----SUBVERSIVE ACTIVITY

Sec. 11. G.S. 14-12 reads as rewritten:

"§ *14-12. Punishment for violations.*

Any person or persons violating any of the provisions of this Article shall, for the first offense, be guilty of a Class 1 misdemeanor and be punished accordingly, and for the second offense shall be punished as a Class H felon."

-----PROHIBITED SECRET SOCIETIES AND ACTIVITIES

Sec. 12. G.S. 14-12.15 reads as rewritten:

"§ *14-12.15. Punishment for violation of Article.*

All persons violating any of the provisions of this Article, except for G.S. 14-12.12(b), 14-12.13, and 14-12.14, shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and upon conviction shall be fined or imprisoned in the discretion of the court.~~ All persons violating the

provisions of G.S. 14-12.12(b), 14-12.13, and 14-12.14 shall be punished as a Class I felon."

-----ISSUING SUBSTITUTES FOR MONEY WITHOUT AUTHORITY

Sec. 13. G.S. 14-15 reads as rewritten:

"§ *14-15. Issuing substitutes for money without authority.*

If any person or corporation, unless the same be expressly allowed by law, shall issue any bill, due bill, order, ticket, certificate of deposit, promissory note or obligation, or any other kind of security, whatever may be its form or name, with the intent that the same shall circulate or pass as the representative of, or as a substitute for, money, he shall ~~forfeit and pay for each offense~~ be guilty of a Class 3 misdemeanor and only punishable by a fine not to exceed the sum of fifty dollars ($50.00); and if the offender be a corporation, it shall in addition forfeit its charter. Every person or corporation offending against this section, or aiding or assisting therein, shall be guilty of a Class 3 misdemeanor and only punishable by a fine not to exceed fifty dollars ($50.00)."

-----RECEIVING OR PASSING UNAUTHORIZED SUBSTITUTES FOR MONEY

Sec. 14. G.S. 14-16 reads as rewritten:

"§ *14-16. Receiving or passing unauthorized substitutes for money.*

If any person or corporation shall pass or receive, as the representative of, or as the substitute for, money, any bill, check, certificate, promissory note, or other security of the kind mentioned in G.S. 14-15, whether the same be issued within or without the State, such person or corporation, and the officers and agents of such corporation aiding therein, who shall offend against this section ~~shall for every such offense forfeit and pay five dollars ($5.00), and~~ shall be guilty of a Class 3 misdemeanor and only punishable by a fine not to exceed five dollars ($5.00)."

-----ASSAULTS ON HANDICAPPED PERSONS

Sec. 15. G.S. 14-32.1(f) reads as rewritten:

"(f) Any person who commits a simple assault or battery upon a handicapped person is guilty of a Class 1 misdemeanor. ~~misdemeanor punishable by a fine, imprisonment for not more than one year, or both.~~"

-----MISDEMEANOR ASSAULTS, BATTERIES, AND AFFRAYS

Sec. 16. G.S. 14-33 reads as rewritten:

"§ *14-33. Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments.*

(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a Class 1

misdemeanor. ~~misdemeanor punishable by a fine not to exceed fifty dollars ($50.00) or imprisonment for not more than 30 days.~~

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class 1 misdemeanor ~~punishable by a fine, imprisonment for not more than two years, or both such fine and imprisonment~~ if, in the course of the assault, assault and battery, or affray, he:

(1) Inflicts, or attempts to inflict, serious injury upon another person or uses a deadly weapon; or

(2) Assaults a female, he being a male person at least 18 years of age; or

(3) Assaults a child under the age of 12 years; or

(4) to (7). Repealed by Session Laws 1991, c. 525, s. 1.

(8) Assaults an officer or employee of the State or of any political subdivision of the State, when the officer or employee is discharging or attempting to discharge his official duties.

(9) Commits an assault and battery against a sports official when the sports official is discharging or attempting to discharge official duties at a sports event, or immediately after the sports event at which the sports official discharged official duties. A 'sports official' is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A 'sports event' includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the State."

-----ASSAULTING BY POINTING GUN

Sec. 17. G.S. 14-34 reads as rewritten:

"*§ 14-34. Assaulting by pointing gun.*

If any person shall point any gun or pistol at any person, either in fun or otherwise, whether such gun or pistol be loaded or not loaded, he shall be guilty of ~~an assault, and upon conviction of the same shall be punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment not to exceed six months, or both such fine and imprisonment.~~ a Class 1 misdemeanor."

-----TEFLON-COATED TYPES OF BULLETS PROHIBITED

Sec. 18. G.S. 14-34.3(c) reads as rewritten:

"(c) Any person who violates any provision of this section is guilty of a Class 1 misdemeanor. ~~misdemeanor punishable as provided in G.S. 14-3(a).~~"

-----HAZING

Sec. 19. G.S. 14-35 reads as rewritten:

"*§ 14-35. Hazing; definition and punishment.*

It shall be unlawful for any student in any college or school in this State to engage in what is known as hazing, or to aid or abet any other student in the commission of this offense. For the purposes of this section hazing is defined as follows: 'to annoy any student by playing abusive or ridiculous tricks upon him, to frighten, scold, beat or harass him, or to subject him to personal indignity.' Any violation of this section shall constitute a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----EXPULSION FROM SCHOOL; DUTY OF FACULTY TO EXPEL

Sec. 20. G.S. 14-36 reads as rewritten:

"*§ 14-36. Expulsion from school; duty of faculty to expel.*

Upon conviction of any student of the offense of hazing, or of aiding or abetting in the commission of this offense, he shall, in addition to any punishment imposed by the court, be expelled from the college or school he is attending. The faculty or governing board of any college or school charged with the duty of expulsion of students for proper cause shall, upon such conviction at once expel the offender, and a failure to do so shall be a Class 1 misdemeanor."

-----ENTICING MINORS OUT OF THE STATE FOR EMPLOYMENT

Sec. 21. G.S. 14-40 reads as rewritten:

"*§ 14-40. Enticing minors out of the State for the purpose of employment.*

If any person shall employ and carry beyond the limits of this State any minor, or shall induce any minor to go beyond the limits of this State, for the purpose of employment without the consent in writing, duly authenticated, of the parent, guardian or other person having authority over such minor, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ The fact of the employment and going out of the State of the minor, or of the going out of the State by the minor, at the solicitation of the person for the purpose of employment, shall be *prima facie* evidence of knowledge that the person employed or solicited to go beyond the limits of the State is a minor."

-----UNLAWFUL ARREST BY OFFICERS FROM OTHER STATES.

Sec. 22. G.S. 14-43.1 reads as rewritten:

"§ *14-43.1. Unlawful arrest by officers from other states.*

A law-enforcement officer of a state other than North Carolina who, knowing that he is in the State of North Carolina and purporting to act by authority of his office, arrests a person in the State of North Carolina, other than as is permitted by G.S. 15A-403, is guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----INVOLUNTARY SERVITUDE

Sec. 23. G.S. 14-43.2(d) reads as rewritten:

"(d) If any person reports a violation of subsection (b) of this section, which violation arises out of any contract for labor, to any party to the contract, the party shall immediately report the violation to the sheriff of the county in which the violation is alleged to have occurred, for appropriate action. A person violating this subsection shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.~~"

-----CONCEALING BIRTH OF CHILD

Sec. 24. G.S. 14-46 reads as rewritten:

"§ *14-46. Concealing birth of child.*

If any person shall, by secretly burying or otherwise disposing of the dead body of a newborn child, endeavor to conceal the birth of such child, such person shall be punished as a Class H felon. Any person aiding, counseling or abetting any other person in concealing the birth of a child in violation of this statute shall be guilty of a Class 1 misdemeanor."

-----COMMUNICATING LIBELOUS MATTER TO NEWSPAPERS

Sec. 25. G.S. 14-47 reads as rewritten:

"§ *14-47. Communicating libelous matter to newspapers.*

If any person shall state, deliver or transmit by any means whatever, to the manager, editor, publisher or reporter of any newspaper or periodical for publication therein any false and libelous statement concerning any person or corporation, and thereby secure the publication of the same, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----BREAKING OR ENTERING BUILDINGS GENERALLY

Sec. 26. G.S. 14-54(b) reads as rewritten:

"(b) Any person who wrongfully breaks or enters any building is guilty of a Class 1 misdemeanor. ~~misdemeanor and is punishable under G.S. 14-3(a).~~"

-----BREAKING INTO COIN- OR CURRENCY-OPERATED MACHINES

Sec. 27. G.S. 14-56.1 reads as rewritten:

"§ *14-56.1. Breaking into or forcibly opening coin- or currency-operated machines.*

Any person who forcibly breaks into, or by the unauthorized use of a key or other instrument opens, any coin- or currency-operated machine with intent to steal any property or moneys therein shall be guilty of a Class 1 misdemeanor, ~~misdemeanor, punishable by fine or imprisonment or both in the discretion of the court,~~ but if such person has previously been convicted of violating this section, such person shall be punished as a Class H felon. The term 'coin- or currency-operated machine' shall mean any coin- or currency-operated vending machine, pay telephone, telephone coin or currency receptacle, or other coin- or currency- activated machine or device.

There shall be posted on the machines referred to in G.S. 14-56.1 a decal stating that it is a crime to break into vending machines, and that a second offense is a felony. The absence of such a decal is not a defense to a prosecution for the crime described in this section."

-----DAMAGING OR DESTROYING COIN- OR CURRENCY-OPERATED MACHINES

Sec. 28. G.S. 14-56.2 reads as rewritten:

"§ *14-56.2. Damaging or destroying coin- or currency-operated machines.*

Any person who shall willfully and maliciously damage or destroy any coin-or currency-operated machine shall be guilty of a Class 1 misdemeanor. ~~misdemeanor punishable by fine or imprisonment or both in the discretion of the court.~~ The term 'coin-or currency-operated machine' shall be defined as set out in G.S. 14-56.1."

-----BREAKING INTO PAPER CURRENCY MACHINES

Sec. 29. G.S. 14-56.3 reads as rewritten:

"§ *14-56.3. Breaking into paper currency machines.*

Any person, who with intent to steal any moneys therein forcibly breaks into any vending or dispensing machine or device which is operated or activated by the use, deposit or insertion of United States paper currency, shall be guilty of a Class 1 misdemeanor, but if such person has previously been convicted of violating this section, such person shall be punished as a Class H felon.

There shall be posted on the machines referred to in G.S. 14-56.3 a decal stating that it is a crime to break into paper currency machines. The absence of such a decal is not a defense to a prosecution for the crime described in this section."

-----FAILURE OF OWNER TO COMPLY WITH ORDERS OF AUTHORITIES

Sec. 30. G.S. 14-68 reads as rewritten:

"*§ 14-68. Failure of owner of property to comply with orders of public authorities.*

If the owner or occupant of any building or premises shall fail to comply with the duly authorized orders of the chief of the fire department, or of the Commissioner of Insurance, or of any municipal or county inspector of buildings or of particular features, facilities, or installations of buildings, he shall be guilty of a Class 3 misdemeanor, and ~~shall be fined~~ punished only by a fine of not less than ten ($10.00) nor more than fifty dollars ($50.00) for each day's neglect, failure, or refusal to obey such orders."

-----FAILURE OF OFFICERS TO INVESTIGATE INCENDIARY FIRES

Sec. 31. G.S. 14-69 reads as rewritten:

"*§ 14-69. Failure of officers to investigate incendiary fires.*

If any town or city officer shall fail, neglect or refuse to comply with any of the requirements of the law in regard to the investigation of incendiary fires, he shall be guilty of a Class 3 misdemeanor and ~~may be fined~~ shall only be punished by a fine not less than twenty-five ($25.00) nor more than two hundred dollars ($200.00)."

-----MAKING A FALSE REPORT CONCERNING DESTRUCTIVE DEVICE

Sec. 32. G.S. 14-69.1 reads as rewritten:

"*§ 14-69.1. Making a false report concerning destructive device.*

(a) If any person shall, by any means of communication to any person or group of persons, make a report, knowing or having reason to know the same to be false, that there is located in any building, house or other structure whatsoever or any vehicle, aircraft, vessel or boat any device designed to destroy or damage the building, house or structure or vehicle, aircraft, vessel or boat by explosion, blasting or burning, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall, upon conviction, be fined or imprisoned or both in the discretion of the court.~~

(b) If any person shall, by any means of communication to any person or group of persons, make a report, knowing or having reason to know the same to be false, that there is located in any hospital facility as defined in G.S. 131E-6, which includes a health clinic facility, any device designed to destroy or damage the hospital or

health clinic facility by explosion, blasting, or burning, he shall, upon a first conviction, be guilty of a Class 1 misdemeanor, punishable by a minimum of 100 hours of mandatory community service. Upon a second or subsequent conviction under this subsection, he shall be guilty of a Class I felony and shall be fined or imprisoned or both in the discretion of the court."

-----PERPETRATING HOAX BY USE OF FALSE BOMB OR OTHER DEVICE

Sec. 33. G.S. 14-69.2 reads as rewritten:

"*§ 14-69.2. Perpetrating hoax by use of false bomb or other device.*

(a) If any person, with intent to perpetrate a hoax, shall secrete, place or display any device, machine, instrument or artifact, so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall, upon conviction, be fined or imprisoned or both in the discretion of the court.~~

(b) A violation of subsection (a) of this section that occurs in a hospital facility as defined in G.S. 131E-6 is, upon a first conviction, a Class 1 misdemeanor punishable by a minimum of 100 hours of mandatory community service. A second or subsequent conviction under subsection (a) of this section is a Class I felony."

-----LARCENY OF PROPERTY; RECEIVING STOLEN GOODS

Sec. 34. G.S. 14-72(a) reads as rewritten:

"(a) Larceny of goods of the value of more than one thousand dollars ($1,000) is a Class H felony. The receiving or possessing of stolen goods of the value of more than one thousand dollars ($1,000) while knowing or having reasonable grounds to believe that the goods are stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a Class H felony. Receiving or possession of stolen goods as provided in subsection (c) of this section is a Class H felony. Except as provided in subsections (b) and (c) of this section, larceny of property, or the receiving or possession of stolen goods knowing or having reasonable grounds to believe them to be stolen, where the value of the property or goods is not more than one thousand dollars ($1,000), is a Class 1 misdemeanor. ~~misdemeanor punishable under G.S. 14-3(a).~~ In all cases of doubt, the jury shall, in the verdict, fix the value of the property stolen."

-----CONCEALMENT OF MERCHANDISE

Sec. 35. G.S. 14-72.1(e) reads as rewritten:

"(e) Punishment. -- For a first conviction under subsections (a) or (d), or for a subsequent conviction for which the punishment is not specified by this subsection, the defendant may be guilty of a Class 3 misdemeanor. ~~fined up to one hundred dollars ($100.00) and must be~~

~~sentnced to a term of imprisonment that includes a minimum term of not less than 24 hours and a maximum term of not more than 60 days.~~ The term of imprisonment may be suspended only on condition that the defendant perform community service for a term of at least 24 hours. For a second offense committed within three years after the date the defendant was convicted of an offense under this section, the defendant may be guilty of a Class 2 misdemeanor. ~~fined up to five hundred dollars ($500.00) and must be sentenced to a term of imprisonment that includes a minimum term of not less than 72 hours and a maximum term of not more than six months.~~ The term of imprisonment may be suspended only on condition that the defendant be imprisoned for a term of at least 72 hours as a condition of special probation, perform community service for a term of at least 72 hours, or both. For a third or subsequent offense committed within five years after the date the defendant was convicted of two other offenses under this section, the defendant may be guilty of a Class 1 misdemeanor. ~~fined and must be sentenced to a term of imprisonment that includes a minimum term of not less than 14 days and a maximum term of not more than two years.~~ The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 14 days. However, if the sentencing judge finds that the defendant is unable, by reason of mental or physical infirmity, to perform the service required under this section, and the reasons for such findings are set forth in the judgment, he may pronounce such other sentence as he finds appropriate."

-----UNAUTHORIZED USE OF A MOTOR-PROPELLED CONVEYANCE

Sec. 36. G.S. 14-72.2(b) reads as rewritten:

"(b) Unauthorized use of an aircraft is a Class I felony. All other unauthorized use of a motor-propelled conveyance is a Class 1 misdemeanor. ~~misdemeanor punishable by a fine, imprisonment not to exceed two years, or both, in the discretion of the court.~~"

-----LARCENY, MUTILATION, OR DESTRUCTION OF PUBLIC RECORDS

Sec. 37. G.S. 14-76 reads as rewritten:

"*§ 14-76. Larceny, mutilation, or destruction of public records and papers.*

If any person shall steal, or for any fraudulent purpose shall take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously obliterate, injure or destroy any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney or any original document whatsoever, of or belonging to any court of

record, or relating to any matter, civil or criminal, begun, pending or terminated in any such court, or any bill, answer, interrogatory, deposition, affidavit, order or decree or any original document whatsoever, of or belonging to any court or relating to any cause or matter begun, pending or terminated in any such court, every such offender shall be guilty of a ~~misdemeanor;~~ Class 1 misdemeanor; and in any indictment for such offense it shall not be necessary to allege that the article, in respect to which the offense is committed, is the property of any person or that the same is of any value. If any person shall steal or for any fraudulent purpose shall take from the register's office, or from any person having the lawful custody thereof, or shall unlawfully and willfully obliterate, injure or destroy any book wherein deeds or other instruments of writing are registered, or any other book of registration or record required to be kept by the register of deeds or shall unlawfully destroy, obliterate, deface or remove any records of proceedings of the board of county commissioners, or unlawfully and fraudulently abstract any record, receipt, order or voucher or other paper writing required to be kept by the clerk of the board of commissioners of any county, he shall be guilty of a Class 1 misdemeanor."

-----MUTILATION OR DEFACEMENT OF NORTH CAROLINA STATE ARCHIVES

Sec. 38. G.S. 14-76.1 reads as rewritten:

"*§ 14-76.1. Mutilation or defacement of records and papers in the North Carolina State Archives.*

If any person shall willfully or maliciously obliterate, injure, deface, or alter any record or paper in the custody of the North Carolina State Archives as defined by G.S. 121-2(7) and 121-2(8), he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and upon conviction imprisoned for a term not exceeding two years or fined not exceeding one thousand dollars ($1,000) or both.~~ The provisions of this section do not apply to employees of the Department of Cultural Resources who may destroy any accessioned records or papers that are approved for destruction by the North Carolina Historical Commission pursuant to the authority contained in G.S. 121-4(12)."

-----LARCENY, CONCEALMENT OR DESTRUCTION OF WILLS

Sec. 39. G.S. 14-77 reads as rewritten:

"*§ 14-77. Larceny, concealment or destruction of wills.*

If any person, either during the life of the testator or after his death, shall steal or, for any fraudulent purpose, shall destroy or conceal any will, codicil or other testamentary instrument, he shall be guilty of a Class 1 misdemeanor."

-----FALSE REPRESENTATION OF ANIMAL PEDIGREE

Sec. 40. G.S. 14-102 reads as rewritten:

"§ 14-102. Obtaining property by false representation of pedigree of animals.

If any person shall, with intent to defraud or cheat, knowingly represent any animal for breeding purposes as being of greater degree of any particular strain of blood than such animal actually possesses, and by such representation obtain from any other person money or other thing of value, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor, and upon conviction thereof shall for each offense be punished by a fine of not less than sixty dollars ($60.00) nor more than three hundred dollars ($300.00), or by imprisonment for a term not exceeding six months.~~"

-----REGISTRATION OF ANIMALS/FALSE REPRESENTATION

Sec. 41. G.S. 14-103 reads as rewritten:

"§ 14-103. Obtaining certificate of registration of animals by false representation.

If any person shall, by any false representation or pretense, with intent to defraud or cheat, obtain from any club, association, society or company for the improvement of the breed of cattle, horses, sheep, swine, fowls or other domestic animals or birds, a certificate of registration of any animal in the herd register of any such association, society or company, or a transfer of any such registration, upon conviction thereof, the person is guilty of a Class 3 misdemeanor. ~~thereof he shall be punished by imprisonment for a term not exceeding three months or a fine not exceeding one hundred dollars ($100.00), or by both such fine and imprisonment.~~"

-----OBTAINING ADVANCES UNDER PROMISE TO WORK

Sec. 42. G.S. 14-104 reads as rewritten:

"§ 14-104. Obtaining advances under promise to work and pay for same.

If any person, with intent to cheat or defraud another, shall obtain any advances in money, provisions, goods, wares or merchandise of any description from any other person or corporation upon and by color of any promise or agreement that the person making the same will begin any work or labor of any description for such person or corporation from whom the advances are obtained, and the person making the promise or agreement shall willfully fail, without a lawful excuse, to commence or complete such work according to contract, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding thirty days.~~"

-----OBTAINING ADVANCES UNDER WRITTEN PROMISE TO PAY

Sec. 43. G.S. 14-105 reads as rewritten:

"§ 14-105. Obtaining advances under written promise to pay therefor out of designated property.

If any person shall obtain any advances in money, provisions, goods, wares or merchandise of any description from any other person or corporation, upon any written representation that the person making the same is the owner of any article of produce, or of any other specific chattel or personal property, which property, or the proceeds of which the owner in such representation thereby agrees to apply to the discharge of the debt so created, and the owner shall fail to apply such produce or other property, or the proceeds thereof, in accordance with such agreement, or shall dispose of the same in any other manner than is so agreed upon by the parties to the transaction, the person so offending shall be guilty of a misdemeanor, whether he shall or shall not have been the owner of any such property at the time such representation was made. Any person violating any provision of this section shall be guilty of a Class 2 misdemeanor. ~~punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----OBTAINING PROPERTY IN RETURN FOR WORTHLESS CHECK

Sec. 44. G.S. 14-106 reads as rewritten:

"*§ 14-106. Obtaining property in return for worthless check, draft or order.*

Every person who, with intent to cheat and defraud another, shall obtain money, credit, goods, wares or any other thing of value by means of a check, draft or order of any kind upon any bank, person, firm or corporation, not indebted to the drawer, or where he has not provided for the payment or acceptance of the same, and the same be not paid upon presentation, shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned, or both, at the discretion of the court.~~ Class 2 misdemeanor. The giving of the aforesaid worthless check, draft, or order shall be *prima facie* evidence of an intent to cheat and defraud."

-----WORTHLESS CHECKS

Sec. 45. G.S. 14-107 reads as rewritten:

"*§ 14-107. Worthless checks.*

It shall be unlawful for any person, firm or corporation, to draw, make, utter or issue and deliver to another, any check or draft on any bank or depository, for the payment of money or its equivalent, knowing at the time of the making, drawing, uttering, issuing and delivering such check or draft as aforesaid, that the maker or drawer thereof has not sufficient funds on deposit in or credit with such bank or depository with which to pay the same upon presentation.

It shall be unlawful for any person, firm or corporation to solicit or to aid and abet any other person, firm or corporation to draw, make, utter or issue and deliver to any person, firm or corporation, any

check or draft on any bank or depository for the payment of money or its equivalent, being informed, knowing or having reasonable grounds for believing at the time of the soliciting or the aiding and abetting that the maker or the drawer of the check or draft has not sufficient funds on deposit in, or credit with, such bank or depository with which to pay the same upon presentation.

The word 'credit' as used herein shall be construed to mean an arrangement or understanding with the bank or depository for the payment of any such check or draft.

A violation of this section shall be a Class J felony if the amount of the check or draft is more than two thousand dollars ($2,000). If the amount of the check or draft is two thousand dollars ($2,000) or less, a violation of this section shall be a misdemeanor punishable as follows:

(1) If the amount of the check or draft is not over one hundred dollars ($100.00), the person is guilty of a Class 2 misdemeanor. ~~the punishment shall be by a fine not to exceed fifty dollars ($50.00) or imprisonment for not more than 30 days.~~ Provided, however, if such person has been convicted three times of violating G.S. 14-107, he shall on the fourth and all subsequent convictions (i) be punished ~~in the discretion of the district or superior court~~ as for a ~~general~~ Class 1 misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

(2) If the amount of the check or draft is over one hundred dollars ($100.00), the person is guilty of a Class 2 misdemeanor.~~punishment shall be by a fine not to exceed two hundred fifty dollars ($250.00) or imprisonment for not more than six months, or both.~~ Provided, however, if such person has been convicted three times of violating G.S. 14-107, he shall on the fourth and all subsequent convictions (i) be punished in the discretion of the district or superior court as for a ~~general~~ Class 1 misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

(3) If the check or draft is drawn upon a nonexistent account, the person is guilty of a Class 1 misdemeanor. ~~the punishment shall be by a fine not to exceed one thousand dollars ($1,000) or imprisonment for not more than two years, or both.~~

(4) If the check or draft is drawn upon an account that has been closed by the drawer prior to time the check is drawn, the person is guilty of a Class 1 misdemeanor. ~~punishment shall be a fine not to exceed four hundred dollars ($400.00) or imprisonment for not more than five months or both.~~

In deciding to impose any sentence other than an active prison sentence, the sentencing judge shall consider and may require, in accordance with the provisions of G.S. 15A-1343, restitution to the victim for the amount of the check or draft and each prosecuting witness (whether or not under subpoena) shall be entitled to a witness fee as provided by G.S. 7A-314 which shall be taxed as part of the cost and assessed to the defendant."

-----OBTAINING PROPERTY/SERVICES FROM MACHINES BY FALSE COINS

Sec. 46. G.S. 14-108 reads as rewritten:

"*§ 14-108. Obtaining property or services from slot machines, etc., by false coins or tokens.*

Any person who shall operate, or cause to be operated, or who shall attempt to operate, or attempt to cause to be operated any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever not lawfully authorized by the owner, lessee or licensee, of such machine, coin-box telephone or receptable, or who shall take, obtain or receive from or in connection with any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value, or the use or enjoyment of any telephone or telegraph facilities or service, or of any musical instrument, phonograph or other property, without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----DEVICES FOR CHEATING SLOT MACHINES, ETC.

Sec. 47. G.S. 14-109 reads as rewritten:

"*§ 14-109. Manufacture, sale, or gift of devices for cheating slot machines, etc.*

Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any automatic vending machine, slot machine, coin-box telephone or other receptacle, depository or contrivance designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, or who, knowing that the same is intended for unlawful use, shall manufacture for sale, or sell or give away any slug, device or substance whatsoever intended or calculated to be placed or deposited in any such automatic vending machine, slot machine, coin-box telephone or other such receptacle, depository or contrivance, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----DEFRAUDING INNKEEPER OR CAMPGROUND OWNER

Sec. 48. G.S. 14-110 reads as rewritten:

"*§ 14-110. Defrauding innkeeper or campground owner.*

No person shall, with intent to defraud, obtain food, lodging, or other accommodations at a hotel, inn, boardinghouse, eating house, or campground. Whoever violates this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor, punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Obtaining such lodging, food, or other accommodation by false pretense, or by false or fictitious show of pretense of baggage or other property, or absconding without paying or offering to pay therefor, or surreptitiously removing or attempting to remove such baggage, shall be *prima facie* evidence of such fraudulent intent, but this section shall not apply where there has been an agreement in writing for delay in such payment."

-----OBTAINING AMBULANCE SERVICES WITHOUT INTENDING TO PAY

Sec. 49. G.S. 14-111.1 reads as rewritten:

"*§ 14-111.1. Obtaining ambulance services without intending to pay therefor -- Buncombe, Haywood and Madison Counties.*

Any person who with the intent to defraud shall obtain ambulance services for himself or other persons without intending at the time of obtaining such services to pay a reasonable charge therefor, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ If a person or persons obtaining such services willfully fails to pay for the services within a period of 90 days after request for payment, such failure shall raise a presumption that the services were obtained with the intention to defraud, and with the intention not to pay therefor.

This section shall apply only to the Counties of Buncombe, Haywood and Madison."

-----OBTAINING AMBULANCE SERVICES WITHOUT INTENDING TO PAY

Sec. 50. G.S. 14-111.2 reads as rewritten:

"§ *14-111.2. Obtaining ambulance services without intending to pay therefor -- certain named counties.*

Any person who with intent to defraud shall obtain ambulance services without intending at the time of obtaining such services to pay, if financially able, any reasonable charges therefor shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ A determination by the court that the recipient of such services has willfully failed to pay for the services rendered for a period of 90 days after request for payment, and that the recipient is financially able to do so, shall raise a presumption that the recipient at the time of obtaining the services intended to defraud the provider of the services and did not intend to pay for the services.

The section shall apply to Anson, Ashe, Beaufort, Caldwell, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Cumberland, Davie, Duplin, Forsyth, Gaston, Guilford, Haywood, Henderson, Hoke, Hyde, Iredell, Macon, Mecklenburg, Montgomery, Orange, Pasquotank, Person, Randolph, Robeson, Rockingham, Scotland, Stanly, Surry, Transylvania, Union, Vance, Washington, Wilkes and Yadkin Counties only."

-----MAKING UNNEEDED AMBULANCE REQUEST IN CERTAIN COUNTIES

Sec. 51. G.S. 14-111.3 reads as rewritten:

"§ *14-111.3. Making unneeded ambulance request in certain counties.*

It shall be unlawful for any person or persons to willfully obtain or attempt to obtain ambulance service that is not needed, or to make a false request or report that an ambulance is needed. Every person convicted of violating this section shall be guilty of a Class 3 misdemeanor. ~~upon conviction be punished by a fine of fifty dollars ($50.00) or imprisonment not to exceed 30 days or both such fine and imprisonment.~~

This section shall apply only to the Counties of Ashe, Buncombe, Cherokee, Clay, Cleveland, Davie, Duplin, Greene, Haywood, Hoke, Macon, Madison, Robeson, Washington, Wilkes and Yadkin."

-----OBTAINING MERCHANDISE ON APPROVAL

Sec. 52. G.S. 14-112 reads as rewritten:

"§ *14-112. Obtaining merchandise on approval.*

If any person, with intent to cheat and defraud, shall solicit and obtain from any merchant any article of merchandise on approval, and

shall thereafter, upon demand, refuse or fail to return the same to such merchant in an unused and undamaged condition, or to pay for the same, such person so offending shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Evidence that a person has solicited a merchant to deliver to him any article of merchandise for examination or approval and has obtained the same upon such solicitation, and thereafter, upon demand, has refused or failed to return the same to such merchant in an unused and undamaged condition, or to pay for the same, shall constitute *prima facie* evidence of the intent of such person to cheat and defraud, within the meaning of this section: Provided, this section shall not apply to merchandise sold upon a written contract which is signed by the purchaser."

-----OBTAINING MONEY BY FALSE REPRESENTATION OF PHYSICAL DEFECT

Sec. 53. G.S. 14-113 reads as rewritten:

"*§ 14-113. Obtaining money by false representation of physical defect.*

It shall be unlawful for any person to falsely represent himself or herself in any manner whatsoever as blind, deaf, dumb, or crippled or otherwise physically defective for the purpose of obtaining money or other thing of value or of making sales of any character of personal property. Any person so falsely representing himself or herself as blind, deaf, dumb, crippled or otherwise physically defective, and securing aid or assistance on account of such representation, shall be deemed guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----FALSE OR FRAUDULENT USE OF CREDIT DEVICE

Sec. 54. G.S. 14-113.6 reads as rewritten:

"*§ 14-113.6. Violation made misdemeanor.*

Any person violating any of the provisions of this Article shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----FINANCIAL TRANSACTION CARD CRIME

Sec. 55. G.S. 14-113.17(a) reads as rewritten:

"(a) A person who is subject to the punishment and penalties of this ~~subsection~~ Article shall be guilty of a Class 2 misdemeanor. ~~fined not more than one thousand dollars ($1,000) or imprisoned not more than one year, or both.~~"

-----FRAUDULENT DISPOSAL OF PROPERTY/SECURITY INTEREST

Sec. 56. G.S. 14-114(a) reads as rewritten:

"(a) If any person, after executing a security agreement on personal property for a lawful purpose, shall make any disposition of any property embraced in such security agreement, with intent to defeat the rights of the secured party, every person so offending and every person with a knowledge of the security interest buying any property embraced in which security agreement, and every person assisting, aiding or abetting the unlawful disposition of such property, with intent to defeat the rights of any secured party in such security agreement, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~

A person's refusal to turn over secured property to a secured party who is attempting to repossess the property without a judgment or order for possession shall not, by itself, be a violation of this section."

-----SECRETING PROPERTY TO HINDER LIEN

Sec. 57. G.S. 14-115 reads as rewritten:

"*§ 14-115. Secreting property to hinder enforcement of lien or security interest.*

Any person who, with intent to prevent or hinder the enforcement of a lien or security interest after a judgment or order has been issued for possession for that personal property subject to said lien or security interest, either refuses to surrender such personal property in his possession to a law enforcement officer, or removes, or exchanges, or secretes such personal property, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----FRAUDULENT ENTRY OF HORSES AT FAIRS

Sec. 58. G.S. 14-116 reads as rewritten:

"*§ 14-116. Fraudulent entry of horses at fairs.*

If any person shall knowingly enter or cause to be entered in competition for any purse, prize, premium, stake or sweepstake offered or given by any agricultural or other society, association or person in this State, any horse, mare, gelding, colt or filly under an assumed name or out of its proper class, he shall be guilty of a Class 2 misdemeanor. ~~punished by a fine not less than one hundred ($100.00) nor more than one thousand dollars ($1,000), or by imprisonment in the State's prison for not less than one nor more than five years, or by both fine and imprisonment, at the discretion of the court.~~"

-----FRAUDULENT AND DECEPTIVE ADVERTISING

Sec. 59. G.S. 14-117 reads as rewritten:

"*§ 14-117. Fraudulent and deceptive advertising.*

It shall be unlawful for any person, firm, corporation or association, with intent to sell or in anywise to dispose of merchandise, securities, service or any other thing offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, to make public, disseminate, circulate or place before the public or cause directly or indirectly to be made, published, disseminated, circulated or placed before the public in this State, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or any other thing so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading: Provided, that such advertising shall be done willfully and with intent to mislead. Any person who shall violate the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~"

-----GASOLINE PRICE ADVERTISEMENTS

Sec. 60. G.S. 14-117.2(b) reads as rewritten:

"(b) Any person or firm violating the provisions of this section shall be guilty of a Class 3 misdemeanor. ~~separate misdemeanor, punishable by a fine of not more than fifty dollars ($50.00) or imprisonment of not more than 30 days or both such fine and imprisonment, for each day that such violation continues.~~"

-----BLACKMAILING

Sec. 61. G.S. 14-118 reads as rewritten:

"*§ 14-118. Blackmailing.*

If any person shall knowingly send or deliver any letter or writing demanding of any other person, with menaces and without any reasonable or probable cause, any chattel, money or valuable security; or if any person shall accuse, or threaten to accuse, or shall knowingly send or deliver any letter or writing accusing or threatening to accuse any other person of any crime punishable by law with death or by imprisonment in the State's prison, with the intent to extort or gain from such person any chattel, money or valuable security, every such offender shall be guilty of a Class 1 misdemeanor."

-----SIMULATION OF COURT PROCESS

Sec. 62. G.S. 14-118.1 reads as rewritten:

"*§ 14-118.1. Simulation of court process in connection with collection of claim, demand or account.*

It shall be unlawful for any person, firm, corporation, association, agent or employee in any manner to coerce, intimidate, or attempt to coerce or intimidate any person in connection with any claim, demand or account, by the issuance, utterance or delivery of any matter, printed, typed or written, which (i) simulates or resembles a summons, warrant, writ or other court process or pleading; or (ii) by its form, wording, use of the name of North Carolina or any officer, agency or subdivision thereof, use of seals or insignia, or general appearance has a tendency to create in the mind of the ordinary person the false impression that it has judicial or other official authorization, sanction or approval. Any violation of the provisions of this section shall be a Class 2 misdemeanor. ~~misdemeanor and shall be punishable by a fine of not more than two hundred dollars ($200.00) or by imprisonment of not more than six months, or both such fine and imprisonment, in the discretion of the court.~~"

-----OBTAINING ACADEMIC CREDIT BY FRAUDULENT MEANS

Sec. 63. G.S. 14-118.2(b) reads as rewritten:

"(b) Any person, firm, corporation or association violating any of the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ This section includes the acts of a teacher or other school official; however, the provisions of this section shall not apply to the acts of one student in assisting another student as herein defined if the former is duly registered in an educational institution in North Carolina and is subject to the disciplinary authority thereof."

-----USE OF INFORMATION OBTAINED FROM PATIENTS IN HOSPITALS

Sec. 64. G.S. 14-118.3 reads as rewritten:

"*§ 14-118.3. Acquisition and use of information obtained from patients in hospitals for fraudulent purposes.*

It shall be unlawful for any person, firm or corporation, or any officer, agent or other representative of any person, firm or corporation to obtain or seek to obtain from any person while a patient in any hospital information concerning any illness, injury or disease of such patient, other than information concerning the illness, injury or disease for which such patient is then hospitalized and being treated, for a fraudulent purpose, or to use any information so obtained in regard to such other illness, injury or disease for a fraudulent purpose.

Any person, firm or corporation violating the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor~~

~~punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----THEFT OF CABLE TELEVISION SERVICE

Sec. 65. G.S. 14-118.5 reads as rewritten:

"§ *14-118.5. Theft of cable television service.*

(a) Any person, firm or corporation who, after October 1, 1984, knowingly and willfully attaches or maintains an electronic, mechanical or other connection to any cable, wire, decoder, converter, device or equipment of a cable television system or removes, tampers with, modifies or alters any cable, wire, decoder, converter, device or equipment of a cable television system for the purpose of intercepting or receiving any programming or service transmitted by such cable television system which person, firm or corporation is not authorized by the cable television system to receive, is guilty of a Class 3 misdemeanor ~~punishable by~~ which may include a fine not exceeding five hundred dollars ($500.00). ~~($500.00), or by imprisonment not exceeding 30 days, or both.~~ Each unauthorized connection, attachment, removal, modification or alteration shall constitute a separate violation.

(b) Any person, firm or corporation who knowingly and willfully, without the authorization of a cable television system, distributes, sells, attempts to sell or possesses for sale in North Carolina any converter, decoder, device, or kit, that is designed to decode or descramble any encoded or scrambled signal transmitted by such cable television system, is guilty of a Class 3 misdemeanor ~~punishable by~~ which may include a fine not exceeding five hundred dollars ~~($500.00) or by imprisonment up to six months, or both.~~ ($500.00). The term "encoded or scrambled signal" shall include any signal or transmission that is not intended to produce an intelligible program or service without the aid of a decoder, descrambler, filter, trap or other electronic or mechanical device."

-----FALSIFYING DOCUMENTS ISSUED BY A SCHOOL

Sec. 66. G.S. 14-122.1(c) reads as rewritten:

"(c) Any person who violates a provision of this section shall be guilty of a Class 1 misdemeanor. ~~crime and shall be punished as provided in G.S. 14-3.~~"

-----WILLFUL AND WANTON INJURY TO REAL PROPERTY

Sec. 67. G.S. 14-127 reads as rewritten:

"§ *14-127. Willful and wanton injury to real property.*

If any person shall willfully and wantonly damage, injure or destroy any real property whatsoever, either of a public or private nature, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and shall be punished by fine or imprisonment or both, in the discretion of the court.~~"

-----INJURY TO TREES, CROPS, LANDS, ETC., OF ANOTHER

Sec. 68. G.S. 14-128 reads as rewritten:

"*§ 14-128. Injury to trees, crops, lands, etc., of another.*

Any person, not being on his own lands, who shall without the consent of the owner thereof, willfully commit any damage, injury, or spoliation to or upon any tree, wood, underwood, timber, garden, crops, vegetables, plants, lands, springs, or any other matter or thing growing or being thereon, or who cuts, breaks, injures, or removes any tree, plant, or flower, shall be guilty of a Class 1 misdemeanor: ~~misdemeanor and, upon conviction, shall be fined not exceeding five hundred dollars ($500.00) or imprisoned not exceeding six months, or both in the discretion of the court:~~ Provided, however, that this section shall not apply to the officers, agents, and employees of the Department of Transportation while in the discharge of their duties within the right-of-way or easement of the Department of Transportation."

-----TAKING WILD PLANTS FROM LAND OF ANOTHER

Sec. 69. G.S. 14-129 reads as rewritten:

"*§ 14-129. Taking, etc., of certain wild plants from land of another.*

No person, firm or corporation shall dig up, pull up or take from the land of another or from any public domain, the whole or any part of any Venus flytrap (Dionaea muscipula), trailing arbutus, Aaron's Rod (Thermopsis caroliniana), Bird-foot Violet (Viola pedata), Bloodroot (Sanguinaria canadensis), Blue Dogbane (Amsonia tabernaemontana), Cardinal-flower (Lobelia cardinalis), Columbine (Aquilegia canadenis), Dutchman's Breeches (Dicentra cucullaria), Maidenhair Fern (Adiantum pedatum), Walking Fern (Camptosorus rhizophyllus), Gentians (Gentiana), Ginseng (Panax quinquefolium), Ground Cedar, Running Cedar, Hepatica (Hepatica americana and acutiloba), Jack-in-the-Pulpit (Arisaema triphyllum), Lily (Lilium), Lupine (Lupinus), Monkshood (Aconitum uncinatum and reclinatum), May Apple (Podophyllum peltatum), Orchids (all species), Pitcher Plant (Sarracenia), Sea Oats (Uniola paniculata), Shooting Star (Dodecantheon meadia), Oconee Bells (Shortia galacifolia), Solomon's Seal (Polygonatum), Trailing Christmas (Greens-Lycopodium), Trillium (Trillium), Virginia Bluebells (Mertensia virginica), and Fringe Tree (Chionanthus virginicus), American holly, white pine, red cedar, hemlock or other coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea, without having in his possession a permit to dig up, pull up or take such plants, signed by the owner of such land, or by his duly authorized agent. Any person convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor only punished

by a fine of ~~fined~~ not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) for each offense. The provisions of this section shall not apply to the Counties of Cabarrus, Carteret, Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham, Rowan and Swain."

-----TRESPASS ON PUBLIC LANDS

Sec. 70. G.S. 14-130 reads as rewritten:

"§ *14-130. Trespass on public lands.*

If any person shall erect a building on any state-owned lands, or cultivate or remove timber from any such lands, without the permission of the State, he shall be guilty of a Class 1 misdemeanor. Moreover, the State can recover from any person cutting timber on its land three times the value of the timber which is cut."

-----TRESPASS ON LAND UNDER OPTION BY U.S.

Sec. 71. G.S. 14-131 reads as rewritten:

"§ *14-131. Trespass on land under option by the federal government.*

On lands under option which have formally or informally been offered to and accepted by the North Carolina Department of Environment, Health, and Natural Resources by the acquiring federal agency and tentatively accepted by said Department for administration as State forests, State parks, State game refuges or for other public purposes, it shall be unlawful to cut, dig, break, injure or remove any timber, lumber, firewood, trees, shrubs or other plants; or any fence, house, barn or other structure; or to pursue, trap, hunt or kill any bird or other wild animals or take fish from streams or lakes within the boundaries of such areas without the written consent of the local official of the United States having charge of the acquisition of such lands.

Any person, firm or corporation convicted of the violation of this section shall be guilty of a Class 3 misdemeanor. ~~misdemeanor and shall be subject to a fine of not more than fifty dollars ($50.00) or to imprisonment for not to exceed 30 days, or to both such fine and imprisonment.~~

The Department of Environment, Health, and Natural Resources through its legally appointed forestry, fish and game wardens is hereby authorized and empowered to assist the county law-enforcement officers in the enforcement of this section."

-----DISORDERLY CONDUCT/INJURIES TO PUBLIC BUILDINGS

Sec. 72. G.S. 14-132(d) reads as rewritten:

"(d) Any person who violates any provision of this section is guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to~~

~~exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----TRESPASSING UPON OR DAMAGING A PUBLIC SCHOOL BUS

Sec. 73. G.S. 14-132.2 reads as rewritten:

"*§ 14-132.2. Willfully trespassing upon or damaging a public school bus.*

(a) Any person who shall unlawfully and willfully demolish, destroy, deface, injure, burn or damage any public school bus or public school activity bus shall be guilty of a Class 1 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than two years, or both.~~

(b) Any person who shall enter a public school bus or public school activity bus after being forbidden to do so by the authorized school bus driver in charge thereof, or the school principal to whom the public school bus or public school activity bus is assigned, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed one hundred dollars ($100.00), imprisonment for not more than 30 days, or both.~~

(c) Any occupant of a public school bus or public school activity bus who shall refuse to leave said bus upon demand of the authorized driver in charge thereof, or upon demand of the principal of the school to which said bus is assigned, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed one hundred dollars ($100.00), imprisonment for not more than 30 days, or both.~~

(d) Subsections (b) and (c) of this section shall not apply to a child less than 12 years of age, or authorized professional school personnel."

-----ARTIFICIAL ISLANDS IN PUBLIC WATERS

Sec. 74. G.S. 14-133 reads as rewritten:

"*§ 14-133. Erecting artificial islands and lumps in public waters.*

If any person shall erect artificial islands or lumps in any of the waters of the State east of the Atlantic Coast Line Railroad running from Wilmington to Weldon by way of Burgaw, Warsaw, Goldsboro, Wilson, Rocky Mount, and Halifax (formerly the Wilmington and Weldon Railroad) and running from Weldon to the North Carolina-Virginia State boundary by way of Garysburg and Pleasant Hill (formerly the Petersburg and Weldon Railroad), he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----OPERATING MOTOR VEHICLE UPON UTILITY EASEMENTS

Sec. 75. G.S. 14-134.2 reads as rewritten:

"*§ 14-134.2. Operating motor vehicle upon utility easements after being forbidden to do so.*

If any person, without permission, shall ride, drive or operate a minibike, motorbike, motorcycle, jeep, dune buggy, automobile, truck or any other motor vehicle upon a utility easement upon which the owner or holder of the easement or agent of the owner or holder of the easement has posted on the easement a "no trespassing" sign or has otherwise given oral or written notice to the person not to so ride, drive or operate such a vehicle upon the said easement, he shall be guilty of a Class 3 misdemeanor, ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months or both,~~ provided, however, neither the owner of the property nor the holder of the easement or their agents, employees, guests, invitees or permittees shall be guilty of a violation under this section."

-----DOMESTIC CRIMINAL TRESPASS

Sec. 76. G.S. 14-134.3 reads as rewritten:

"*§ 14-134.3. Domestic criminal trespass.*

Any person who enters after being forbidden to do so or remains after being ordered to leave by the lawful occupant, upon the premises occupied by a present or former spouse or by a person with whom the person charged has lived as if married, shall be guilty of a misdemeanor if the complainant and the person charged are living apart; provided, however, that no person shall be guilty if said person enters upon the premises pursuant to a judicial order or written separation agreement which gives the person the right to enter upon said premises for the purpose of visiting with minor children. Evidence that the parties are living apart shall include but is not necessarily limited to:

(1) A judicial order of separation;
(2) A court order directing the person charged to stay away from the premises occupied by the complainant;
(3) An agreement, whether verbal or written, between the complainant and the person charged that they shall live separate and apart, and such parties are in fact living separate and apart; or
(4) Separate places of residence for the complainant and the person charged.

On conviction, said person is guilty of a Class 1 misdemeanor. ~~may be punished by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----CUTTING, INJURING, OR REMOVING ANOTHER'S TIMBER

Sec. 77. G.S. 14-135 reads as rewritten:

"*§ 14-135. Cutting, injuring, or removing another's timber.*

If any person not being the bona fide owner thereof, shall knowingly and willfully cut down, injure or remove any standing, growing or fallen tree or log, the property of another, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall be punished by a fine or imprisonment, or both, in the discretion of the court.~~"

-----SETTING FIRE TO GRASS AND BRUSHLANDS AND WOODLANDS

Sec. 78. G.S. 14-136 reads as rewritten:

"*§ 14-136. Setting fire to grass and brushlands and woodlands.*

If any person shall intentionally set fire to any grassland, brushland or woodland, except it be his own property, or in that case without first giving notice to all persons owning or in charge of lands adjoining the land intended to be fired, and without also taking care to watch such fire while burning and to extinguish it before it shall reach any lands near to or adjoining the lands so fired, he shall for every such offense be guilty of a Class 2 misdemeanor ~~misdemeanor and shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or imprisoned for a period of not less than 60 days nor more than four months~~ for the first offense, and for a second or any subsequent similar offense shall be guilty of a Class 1 misdemeanor. ~~imprisoned not less than four months nor more than one year.~~ If intent to damage the property of another shall be shown, said person shall, for a first offense, be punished as a Class I felon; and for a second and subsequent offenses said person shall be punished as a Class H felon. This section shall not prevent an action for the damages sustained by the owner of any property from such fires. For the purposes of this section, the term 'woodland' is to be taken to include all forest areas, both timber and cutover land, and all second-growth stands on areas that have at one time been cultivated. Any person who shall furnish to the State, evidence sufficient for the conviction of a violation of this section shall receive the sum of five hundred dollars ($500.00) to be paid from the State Fire Suppression Fund."

-----WILLFULLY OR NEGLIGENTLY SETTING FIRE TO WOODS AND FIELDS

Sec. 79. G.S. 14-137 reads as rewritten:

"*§ 14-137. Willfully or negligently setting fire to woods and fields.*

If any person, firm or corporation shall willfully or negligently set on fire, or cause to be set on fire, any woods, lands or fields, whatsoever, every such offender shall be guilty of a Class 2 misdemeanor. ~~offender, upon conviction, shall be fined or imprisoned in the discretion of the court.~~ This section shall apply only in those

counties under the protection of the Department of Environment, Health, and Natural Resources in its work of forest fire control. It shall not apply in the case of a landowner firing, or causing to be fired, his own open, nonwooded lands, or fields in connection with farming or building operations at the time and in the manner now provided by law: Provided, he shall have confined the fire at his own expense to said open lands or fields."

-----CERTAIN FIRES TO BE GUARDED BY WATCHMAN

Sec. 80. G.S. 14-140 reads as rewritten:

"*§ 14-140. Certain fires to be guarded by watchman.*

All persons, firms or corporations who shall burn any tar kiln or pit of charcoal, or set fire to or burn any brush, grass or other material, whereby any property may be endangered or destroyed, shall keep and maintain a careful and competent watchman in charge of such kiln, pit, brush or other material while burning. Any person, firm or corporation violating the provisions of this section shall be guilty of a Class 3 misdemeanor. ~~punishable by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), or by imprisonment for not exceeding 30 days.~~ Fire escaping from such kiln, pit, brush or other material while burning shall be *prima facie* evidence of neglect of these provisions."

-----BURNING OR OTHERWISE DESTROYING CROPS IN THE FIELD

Sec. 81. G.S. 14-141 reads as rewritten:

"*§ 14-141. Burning or otherwise destroying crops in the field.*

Any person who shall willfully burn or destroy any other person's lawfully grown crop, pasture, or provender shall be punished as follows:

(1) If the damage is two thousand dollars ($2,000) or less, the person is guilty of a Class 1 misdemeanor. ~~misdemeanor punishable by a term of imprisonment not to exceed two years, a fine, or both.~~

(2) If the damage is more than two thousand dollars ($2,000), the person is guilty of a Class I felony."

-----INJURIES TO DAMS AND WATER CHANNELS OF MILLS

Sec. 82. G.S. 14-142 reads as rewritten:

"*§ 14-142. Injuries to dams and water channels of mills and factories.*

If any person shall cut away, destroy or otherwise injure any dam, or part thereof, or shall obstruct or damage any race, canal or other water channel erected, opened, used or constructed for the purpose of furnishing water for the operation of any mill, factory or machine works, or for the escape of water therefrom, he shall be guilty of a Class 2 misdemeanor. ~~shall, upon conviction, be punishable by a fine~~

~~not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----INJURING HOUSES, CHURCHES, FENCES AND WALLS

Sec. 83. G.S. 14-144 reads as rewritten:

"*§ 14-144. Injuring houses, churches, fences and walls.*

If any person shall, by any other means than burning or attempting to burn, unlawfully and willfully demolish, destroy, deface, injure or damage any of the houses or other buildings mentioned in this Chapter in the Article entitled Arson and Other Burnings; or shall by any other means than burning or attempting to burn unlawfully and willfully demolish, pull down, destroy, deface, damage or injure any church, uninhabitated house, outhouse or other house or building not mentioned in such article; or shall unlawfully and willfully burn, destroy, pull down, injure or remove any fence, wall or other inclosure, or any part thereof, surrounding or about any yard, garden, cultivated field or pasture, or about any church or graveyard, or about any factory or other house in which machinery is used, every person so offending shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----UNLAWFUL POSTING OF ADVERTISEMENTS

Sec. 84. G.S. 14-145 reads as rewritten:

"*§ 14-145. Unlawful posting of advertisements.*

Any person who in any manner paints, prints, places, or affixes, or causes to be painted, printed, placed, or affixed, any business or commercial advertisement on or to any stone, tree, fence, stump, pole, automobile, building, or other object, which is the property of another without first obtaining the written consent of such owner thereof, or who in any manner paints, prints, places, puts, or affixes, or causes to be painted, printed, placed, or affixed, such an advertisement on or to any stone, tree, fence, stump, pole, mile-board, milestone, danger-sign, danger-signal, guide-sign, guide-post, automobile, building or other object within the limits of a public highway, shall be guilty of a Class 3 misdemeanor. ~~misdemeanor and shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~"

-----INJURING BRIDGES

Sec. 85. G.S. 14-146 reads as rewritten:

"*§ 14-146. Injuring bridges.*

If any person shall unlawfully and willfully demolish, destroy, break, tear down, injure or damage any bridge across any of the creeks or rivers or other streams in the State, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and fined or imprisoned, or both, in the discretion of the court.~~"

-----REMOVING, ALTERING OR DEFACING LANDMARKS

Sec. 86. G.S. 14-147 reads as rewritten:

"*§ 14-147. Removing, altering or defacing landmarks.*

If any person, firm or corporation shall knowingly remove, alter or deface any landmark in anywise whatsoever, or shall knowingly cause such removal, alteration or defacement to be done, such person, firm or corporation shall be guilty of a Class 2 misdemeanor. This section shall not apply to landmarks, such as creeks and other small streams, which the interest of agriculture may require to be altered or turned from their channels, nor to such persons, firms or corporations as own the fee simple in the lands on both sides of the lines designated by the landmarks removed, altered or defaced. Nor shall this section apply to those adjoining landowners who may by agreement remove, alter or deface landmarks in which they alone are interested."

-----DEFACING OR DESECRATING GRAVE SITES

Sec. 87. G.S. 14-148(c) reads as rewritten:

"(c) Violation of this section is a Class 1 misdemeanor. ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not less than 60 days nor more than one year, or both, in the discretion of the court.~~ In passing sentence, the court shall consider the appropriateness of restitution or reparation as a condition of probation under G.S. 15A-1343(b)(6) as an alternative to actual imposition of a fine, jail term, or both."

-----INTERFERING WITH GAS, ELECTRIC, AND STEAM APPLIANCES

Sec. 88. G.S. 14-151 reads as rewritten:

"*§ 14-151. Interfering with gas, electric and steam appliances.*

If any person shall willfully, with intent to injure or defraud, commit any of the acts set forth in the following subdivisions, he shall be guilty of a Class 2 misdemeanor:

(1) Connect a tube, pipe, wire or other instrument or contrivance with a pipe or wire used for conducting or supplying illuminating gas, fuel, natural gas or electricity in such a manner as to supply such gas or electricity to any burner, orifice, lamp or motor where the same is or can be burned or used without passing through the meter or other instrument provided for registering the quantity consumed; or,

(2) Obstruct, alter, injure or prevent the action of a meter or other instrument used to measure or register the quantity of illuminating fuel, natural gas or electricity consumed in a house or apartment, or at an orifice or burner, lamp or motor, or by a consumer or other person other than an employee of the company owning any gas or electric meter,

who willfully shall detach or disconnect such meter, or make or report any test of, or examine for the purpose of testing any meter so detached or disconnected; or,

(3) In any manner whatever change, extend or alter any service or other pipe, wire or attachment of any kind, connecting with or through which natural or artificial gas or electricity is furnished from the gas mains or pipes of any person, without first procuring from said person written permission to make such change, extension or alterations; or,

(4) Make any connection or reconnection with the gas mains, service pipes or wires of any person, furnishing to consumers natural or artificial gas or electricity, or turn on or off or in any manner interfere with any valve or stopcock or other appliance belonging to such person, and connected with his service or other pipes or wires, or enlarge the orifices of mixers, or use natural gas for heating purposes except through mixers, or electricity for any purpose without first procuring from such person a written permit to turn on or off such stopcock or valve, or to make such connection or reconnections, or to enlarge the orifice of mixers, or to use for heating purposes without mixers, or to interfere with the valves, stopcocks, wires or other appliances of such, as the case may be; or,

(5) Retain possession of or refuse to deliver any mixer, meter, lamp or other appliance which may be leased or rented by any person, for the purpose of furnishing gas, electricity or power through the same, or sell, lend or in any other manner dispose of the same to any person other than such person entitled to the possession of the same; or,

(6) Set on fire any gas escaping from wells, broken or leaking mains, pipes, valves or other appliances used by any person in conveying gas to consumers, or interfere in any manner with the wells, pipes, mains, gateboxes, valves, stopcocks, wires, cables, conduits or any other appliances, machinery or property of any person engaged in furnishing gas to consumers unless employed by or acting under the authority and direction of such person; or,

(7) Open or cause to be opened, or reconnect or cause to be reconnected any valve lawfully closed or disconnected by a district steam corporation; or

(8) Turn on steam or cause it to be turned on or to reenter any premises when the same has been lawfully stopped from entering such premises."

-----INTERFERING WITH ELECTRIC, GAS, OR WATER METERS

Sec. 89. G.S. 14-151.1(c) reads as rewritten:

"(c) Any person violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500.00) or imprisoned not longer than two years, or both fined and imprisoned, in the discretion of the court.~~"

-----INJURING FIXTURES AND OTHER PROPERTY OF GAS COMPANIES

Sec. 90. G.S. 14-152 reads as rewritten:

"*§ 14-152. Injuring fixtures and other property of gas companies; civil liability.*

If any person shall willfully, wantonly or maliciously remove, obstruct, injure or destroy any part of the plant, machinery, fixtures, structures or buildings, or anything appertaining to the works of any gas company, or shall use, tamper or interfere with the same, he shall be deemed guilty of a Class 3 misdemeanor. ~~misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not more than 30 days for such offense.~~ Such person shall also forfeit and pay to the company so injured, to be sued for and recovered in a civil action, double the amount of the damages sustained by any such injury."

-----TAMPERING WITH ENGINES AND BOILERS

Sec. 91. G.S. 14-153 reads as rewritten:

"*§ 14-153. Tampering with engines and boilers.*

If any person shall willfully turn out water from any boiler or turn the bolts of any engine or boiler, or meddle or tamper with such boiler or engine, or any other machinery in connection with any boiler or engine, causing loss, damage, danger or delay to the owner in the prosecution of his work, he shall be guilty of a Class 2 misdemeanor."

-----INJURING WIRES AND OTHER FIXTURES OF UTILITIES

Sec. 92. G.S. 14-154 reads as rewritten:

"*§ 14-154. Injuring wires and other fixtures of telephone, telegraph and electric-power companies.*

If any person shall willfully injure, destroy or pull down any telegraph, telephone or elctric-power-transmission pole, wire, insulator or any other fixture or apparatus attached to a telegraph, telephone or electric-power-transmission line, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall be fined and imprisoned at the discretion of the court.~~"

-----UNAUTHORIZED CONNECTIONS WITH TELEPHONE OR TELEGRAPH

Sec. 93. G.S. 14-155 reads as rewritten:

"*§ 14-155. Unauthorized connections with telephone or telegraph.*

It shall be unlawful for any person to tap or make any connection with any wire or apparatus of any telephone or telegraph company operating in this State, except such connection as may be authorized by the person or corporation operating such wire or apparatus. Any person violating this section shall be guilty of a Class 3 misdemeanor. ~~shall, upon conviction, be fined not more than ten dollars ($10.00) or imprisoned not more than 10 days for each offense.~~ Each day's continuance of such unlawful connection shall be a separate offense. No connection approved by the Federal Communications Commission or the North Carolina Utilities Commission shall be a violation of this section."

-----INJURING FIXTURES AND OTHER PROPERTY OF ELECTRIC-POWER COMPANIES

Sec. 94. G.S. 14-156 reads as rewritten:

"*§ 14-156. Injuring fixtures and other property of electric-power companies.*

It shall be unlawful for any person willfully and wantonly, and without the consent of the owner, to take down, remove, injure, obstruct, displace or destroy any line erected or constructed for the transmission of electrical current, or any poles, towers, wires, conduits, cables, insulators or any support upon which wires or cables may be suspended, or any part of any such line or appurtenances or apparatus connected therewith, or to sever any wire or cable thereof, or in any manner to interrupt the transmission of electrical current over and along any such line, or to take down, remove, injure or destroy any house, shop, building or other structure or machinery connected with or necessary to the use of any line erected or constructed for the transmission of electrical current, or to wantonly or willfully cause injury to any of the property mentioned in this section by means of fire. Any person violating any of the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars ($500.00) or imprisoned not longer than one year, or both fined and imprisoned, in the discretion of the court.~~"

-----FELLING TREES ON TELEPHONE AND ELECTRIC-POWER WIRES

Sec. 95. G.S. 14-157 reads as rewritten:

"*§ 14-157. Felling trees on telephone and electric-power wires.*

If any person shall negligently and carelessly cut or fell any tree, or any limb or branch therefrom, in such a manner as to cause the same to fall upon and across any telephone, electric light or electric-power-transmission wire, from which any injury to such wire

shall be occasioned, he shall be guilty of a Class 3 misdemeanor, and shall also be liable to penalty of fifty dollars ($50.00) for each and every offense. ~~Any person violating any provision of this section shall be punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----INTERFERING WITH TELEPHONE LINES

Sec. 96. G.S. 14-158 reads as rewritten:

"*§ 14-158. Interfering with telephone lines.*

If any person shall unnecessarily disconnect the wire or in any other way render any telephone line, or any part of such line, unfit for use in transmitting messages, or shall unnecessarily cut, tear down, destroy or in any way render unfit for the transmission of messages any part of the wire of a telephone line, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----INJURING BUILDINGS OR FENCES; POSSESSION OF HOUSE

Sec. 97. G.S. 14-159 reads as rewritten:

"*§ 14-159. Injuring buildings or fences; taking possession of house without consent.*

If any person shall deface, injure or damage any house, uninhabited house or other building belonging to another; or deface, damage, pull down, injure, remove or destroy any fence or wall enclosing, in whole or in part, the premises belonging to another; or shall move into, take possession of and/or occupy any house, uninhabited house or other building situated on the premises belonging to another, without having first obtained authority so to do and consent of the owner or agent thereof, he shall be guilty of a Class 3 misdemeanor. ~~misdemeanor and shall be fined not exceeding fifty dollars ($50.00), or imprisoned not exceeding 30 days.~~"

-----INTERFERENCE WITH ANIMAL RESEARCH

Sec. 98. G.S. 14-159.2(b) reads as rewritten:

"(b) Any person who commits an offense under subsection (a) of this section shall be guilty of a Class 1 misdemeanor."

-----TRESPASS/HUNTING WITHOUT WRITTEN CONSENT

Sec. 99. G.S. 14-159.6 reads as rewritten:

"*§ 14-159.6. Trespass for purposes of hunting, etc., without written consent a misdemeanor.*

Any person who willfully goes on the land, waters, ponds, or a legally established waterfowl blind of another upon which notices, signs or posters, described in G.S. 14-159.7, prohibiting hunting, fishing or trapping, or upon which "posted" notices have been placed, to hunt, fish or trap without the written consent of the owner or his

agent shall be guilty of a Class 2 misdemeanor. ~~misdemeanor and punished by a fine of not less than fifty dollars ($50.00) nor more than two hundred fifty dollars ($250.00), or by imprisonment for not more than six months, or by both fine and imprisonment.~~ Provided, further, that no arrests under authority of this section shall be made without the consent of the owner or owners of said land, or their duly authorized agents in the following counties: Halifax and Warren."

-----MUTILATION OF "POSTED" SIGNS; POSTING WITHOUT CONSENT

Sec. 100. G.S. 14-159.8 reads as rewritten:

"*§ 14-159.8. Mutilation, etc., of 'posted' signs; posting signs without consent of owner or agent.*

Any person who shall mutilate, destroy or take down any 'posted,' 'no hunting' or similar notice, sign or poster on the lands, waters, or legally established waterfowl blind of another, or who shall post such sign or poster on the lands, waters or legally established waterfowl blind of another, without the consent of the owner or his agent, shall be deemed guilty of a Class 3 misdemeanor and ~~shall be~~ only punished by a fine of not more than one hundred dollars ($100.00)."

-----FIRST DEGREE TRESPASS

Sec. 101. G.S. 14-159.12(b) reads as rewritten:

"(b) Classification. -- First degree trespass is a Class 2 misdemeanor. ~~misdemeanor punishable by imprisonment for up to six months, a fine of up to one thousand dollars ($1,000), or both.~~"

-----SECOND DEGREE TRESPASS

Sec. 102. G.S. 14-159.13(b) reads as rewritten:

"(b) Classification. -- Second degree trespass is a Class 3 misdemeanor. ~~misdemeanor punishable by imprisonment for up to 30 days, a fine up to two hundred dollars ($200.00), or both.~~"

-----VANDALISM; PENALTIES

Sec. 103. G.S. 14-159.21 reads as rewritten:

"*§ 14-159.21. Vandalism; penalties.*

It is unlawful for any person, without express, prior, written permission of the owner, to willfully or knowingly:

(1) Break, break off, crack, carve upon, write, burn or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any natural material therein, including speleothems;

(2) Disturb or alter in any manner the natural condition of any cave;

(3) Break, force, tamper with or otherwise disturb a lock, gate, door or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

Any person violating a provision of this section shall be guilty of a Class 3 misdemeanor. ~~misdemeanor, punishable by a fine of not less than one hundred fifty dollars ($150.00) or more than five hundred dollars ($500.00), imprisonment for not less than 10 days or more than six months, or both.~~"

-----SALE OF SPELEOTHEMS UNLAWFUL; PENALTIES

Sec. 104. G.S. 14-159.22 reads as rewritten:

"§ *14-159.22. Sale of speleothems unlawful; penalties.*

It is unlawful to sell or offer for sale any speleothems in this State, or to export them for sale outside the State. A person who violates any of the provisions of this section shall be guilty of a Class 3 misdemeanor. ~~misdemeanor, punishable by a fine of not less than one hundred fifty dollars ($150.00) or more than five hundred dollars ($500.00), imprisonment for not less than 10 days or more than six months, or both.~~"

-----WILLFUL AND WANTON INJURY TO PERSONAL PROPERTY

Sec. 105. G.S. 14-160 reads as rewritten:

"§ *14-160. Willful and wanton injury to personal property; punishments.*

(a) If any person shall wantonly and willfully injure the personal property of another he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months or both.~~

(b) Notwithstanding the provisions of subsection (a), if any person shall wantonly and willfully injure the personal property of another, causing damage in an amount in excess of two hundred dollars ($200.00), he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor punishable as provided in G.S. 14-3(a).~~"

(c) This section applies to injuries to personal property without regard to whether the property is destroyed or not."

-----ALTERATION/DESTRUCTION/REMOVAL OF IDENTIFICATION MARKS

Sec. 106. G.S. 14-160.1(c) reads as rewritten:

"(c) A violation of any of the provisions of this section shall be a Class 1 misdemeanor. ~~misdemeanor, punishable on conviction thereof by imprisonment not to exceed two years or by a fine not to exceed one thousand dollars ($1,000) or both, in the discretion of the court.~~"

-----REMOVING BOATS.

Sec. 107. G.S. 14-162 reads as rewritten:

"§ *14-162. Removing boats.*

If any person shall loose, unmoor, or turn adrift from any landing or other place wherever the same shall be, any boat, canoe, or other marine vessel, or if any person shall direct the same to be done without the consent of the owner, or the person having the lawful

custody or possession of such vessel, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor, and upon conviction shall be fined not exceeding five hundred dollars ($500.00), imprisonment for not more than six months or both.~~ The owner may also have his action for such injury. The penalties aforesaid shall not extend to any person who shall press any such property by public authority."

-----INJURING OR KILLING LAW-ENFORCEMENT AGENCY ANIMAL

Sec. 108. G.S. 14-163.1 reads as rewritten:

"§ *14-163.1. Injuring or killing law-enforcement agency animal.*

Any person who knows or has reason to know that an animal is used for law-enforcement purposes such as investigation, detection of narcotics or explosives, or crowd control, by any law-enforcement agency and who willfully and not in self defense, causes serious injury to or kills that animal is guilty of a Class 1 misdemeanor. ~~misdemeanor and shall be fined or imprisoned, or both, in the discretion of the court.~~"

-----MALICIOUS OR WILLFUL INJURY TO HIRED PERSONAL PROPERTY

Sec. 109. G.S. 14-165 reads as rewritten:

"§ *14-165. Malicious or willful injury to hired personal property.*

Any person who shall rent or hire from any person, firm or corporation, any horse, mule or like animal, or any buggy, wagon, truck, automobile, or other like vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, who shall maliciously or willfully injure or damage the same by in any way using or driving the same in violation of any statute of the State of North Carolina, or who shall permit any other person so to do, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor and subject to punishment as hereinafter provided.~~"

-----SUBLETTING OF HIRED PROPERTY

Sec. 110. G.S. 14-166 reads as rewritten:

"§ *14-166. Subletting of hired property.*

Any person who shall rent or hire, any horse, mule, or other like animal, or any buggy, wagon, truck, automobile, or other like vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, who shall, without the permission of the person, firm or corporation from whom such property is rented or hired, sublet or rent the same to any other person, firm or corporation, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more that six months, or both.~~"

-----FAILURE TO RETURN HIRED PROPERTY

Sec. 111. G.S. 14-167 reads as rewritten:

"§ *14-167. Failure to return hired property.*

Any person who shall rent or hire, any horse, mule or other like animal, or any buggy, wagon, truck, automobile, or other vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, and who shall willfully fail to return the same to the possession of the person, firm or corporation from whom such property has been rented or hired at the expiration of the time for which such property has been rented or hired, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----HIRING WITH INTENT TO DEFRAUD

Sec. 112. G.S. 14-168 reads as rewritten:

"§ *14-168. Hiring with intent to defraud.*

Any person who shall, with intent to cheat and defraud the owner thereof of the rental price therefor, hire or rent any horse or mule or any other like animal, or any buggy, wagon, truck, automobile or other like vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, or who shall obtain the possession of the same by false and fraudulent statements made with intent to deceive, which are calculated to deceive, and which do deceive, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----CONVERSION BY BAILEE, LESSEE, TENANT OR ATTORNEY-IN-FACT

Sec. 113. G.S. 14-168.1 reads as rewritten:

"§ *14-168.1. Conversion by bailee, lessee, tenant or attorney-in-fact.*

Every person entrusted with any property as bailee, lessee, tenant or lodger, or with any power of attorney for the sale or transfer thereof, who fraudulently converts the same, or the proceeds thereof, to his own use, or secretes it with a fraudulent intent to convert it to his own use, shall be guilty of a Class 1 misdemeanor. ~~misdemeanor.~~

If, however, the value of the property converted or secreted, or the proceeds thereof, is in excess of four hundred dollars ($400.00), every person so converting or secreting it is guilty of a Class H felony. In all cases of doubt the jury shall, in the verdict, fix the value of the property converted or secreted."

-----FAILING TO RETURN RENTED PROPERTY/PURCHASE OPTION

Sec. 114. G.S. 14-168.4(a) reads as rewritten:

"(a) It shall be a Class 2 misdemeanor ~~misdemeanor, punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both,~~ for any person to fail to return rented property with intent to defeat the rights of the owner,

which is rented pursuant to a written rental agreement in which there is an option to purchase the property, after the date of termination provided in the agreement has occurred or, if the termination date is the occurrence of a specified event, then that such event has in fact occurred."

-----PROTECTION OF BAILOR AGAINST ACTS OF BAILEE

Sec. 115. G.S. 14-169 reads as rewritten:

"§ *14-169. Violation made misdemeanor.*

Except as otherwise provided, any person violating the provisions of this Article shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and punished at the discretion of the court.~~"

-----REGULATING THE LEASING OF STORAGE BATTERIES

Sec. 116. G.S. 14-175 reads as rewritten:

"§ *14-175. Violation made misdemeanor.*

Any person, firm or corporation, and the officers, agents, employees, and members of any firm or corporation violating any of the provisions of G.S. 14-170 to 14-174 shall be guilty of a Class 3 misdemeanor. ~~misdemeanor and upon conviction thereof shall be sentenced to pay a fine not exceeding fifty dollars ($50.00) or be imprisoned for a term of not exceeding 30 days in the discretion of the court.~~"

-----REBUILDING STORAGE BATTERIES OUT OF OLD PARTS

Sec. 117. G.S. 14-176 reads as rewritten:

"§ *14-176. Rebuilding storage batteries out of old parts and sale of, regulated.*

Any person, firm or corporation who assembles or rebuilds an electric storage battery for use on automobiles, in whole or in part, out of secondhand or used material such as containers, separators, plates, groups or other battery parts, and sells same or offers same for sale in the State of North Carolina without the word 'rebuilt' placed in the side of the container, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding two hundred and fifty dollars ($250.00) or imprisoned for a term not exceeding six months or both.~~"

-----INCEST BETWEEN UNCLE AND NIECE AND NEPHEW AND AUNT

Sec. 118. G.S. 14-179 reads as rewritten:

"§ *14-179. Incest between uncle and niece and nephew and aunt.*

In all cases of carnal intercourse between uncle and niece, and nephew and aunt, the parties shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall be punished by a fine or imprisonment, in the discretion of the court.~~"

-----FORNICATION AND ADULTERY

Sec. 119. G.S. 14-184 reads as rewritten:

"§ *14-184. Fornication and adultery.*

If any man and woman, not being married to each other, shall lewdly and lasciviously associate, bed and cohabit together, they shall be guilty of a Class 2 misdemeanor: ~~misdemeanor:~~ Provided, that the admissions or confessions of one shall not be received in evidence against the other. ~~Any person violating any provision of this section shall be punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----AT HOTEL FOR IMMORAL PURPOSES; FALSELY REGISTERING

Sec. 120. G.S. 14-186 reads as rewritten:

"§ *14-186. Opposite sexes occupying same bedroom at hotel for immoral purposes; falsely registering as husband and wife.*

Any man and woman found occupying the same bedroom in any hotel, public inn or boardinghouse for any immoral purpose, or any man and woman falsely registering as, or otherwise representing themselves to be, husband and wife in any hotel, public inn or boardinghouse, shall be deemed guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----KEEPING DISORDERLY HOUSES

Sec. 121. G.S. 14-188(b) reads as rewritten:

"(b) On a prosecution in any court for keeping a disorderly house or a bawdy house, or permitting a house to be used as a bawdy house or used in such a way to make it disorderly or a common nuisance, the offense shall constitute a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----COERCING ACCEPTANCE OF OBSCENE ARTICLES

Sec. 122. G.S. 14-190.4 reads as rewritten:

"§ *14-190.4. Coercing acceptance of obscene articles or publications.*

No person, firm or corporation shall, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication require that the purchaser or consignee receive for resale any other article, book, or publication which is obscene within the meaning of G.S. 14-190.1; nor shall any person, firm or corporation deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books, or publications, or by reason of the return thereof. Violation of this section is a Class 1 misdemeanor. ~~misdemeanor punishable by imprisonment for up to one year and a fine of up to one thousand dollars ($1,000).~~"

-----PREPARATION OF OBSCENE PHOTOGRAPHS

Sec. 123. G.S. 14-190.5 reads as rewritten:

"*§ 14-190.5. Preparation of obscene photographs, slides and motion pictures.*

Every person who knowingly:

(1) Photographs himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for the purpose of dissemination; or

(2) Models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for the purpose of dissemination,

shall be guilty of a Class 1 misdemeanor. ~~misdemeanor punishable by imprisonment for up to one year and a fine of up to one thousand dollars ($1,000).~~"

-----INDECENT EXPOSURE

Sec. 124. G.S. 14-190.9 reads as rewritten:

"*§ 14-190.9. Indecent exposure.*

Any person who shall willfully expose the private parts of his or her person in any public place and in the presence of any other person or persons, of the opposite sex, or aids or abets in any such act, or who procures another to perform such act; or any person, who as owner, manager, lessee, director, promoter or agent, or in any other capacity knowingly hires, leases or permits the land, building, or premises of which he is owner, lessee or tenant, or over which he has control, to be used for purposes of any such act, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----DISPLAYING MATERIAL HARMFUL TO MINORS

Sec. 125. G.S. 14-190.14(b) reads as rewritten:

"(b) Punishment. -- Violation of this section is a ~~misdemeanor and is punishable by imprisonment for up to six months and a fine of at least five hundred dollars ($500.00).~~ Class 2 misdemeanor. Each day's violation of this section is a separate offense."

-----DISSEMINATING HARMFUL MATERIAL TO MINORS

Sec. 126. G.S. 14-190.15(d) reads as rewritten:

"(d) Punishment. -- Violation of this section is a Class 1 misdemeanor. ~~misdemeanor and is punishable by imprisonment for up to two years and a fine.~~"

-----PROFANE OR INDECENT LANGUAGE ON PASSENGER TRAINS

Sec. 127. G.S. 14-195 reads as rewritten:

"*§ 14-195. Using profane or indecent language on passenger trains.*

It shall be unlawful for any person to curse or use profane or indecent language on any passenger train. Any person so offending

shall be guilty of a Class 3 misdemeanor. ~~upon conviction be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~"

-----PROFANE, INDECENT OR THREATENING LANGUAGE OVER TELEPHONE; ANNOYING OR HARASSING BY REPEATED TELEPHONING

Sec. 128. G.S.14-196(c) reads as rewritten:

"(c) Anyone violating the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor and shall be subject to a fine or imprisonment, or both, in the discretion of the court.~~"

-----USING PROFANE OR INDECENT LANGUAGE ON PUBLIC HIGHWAYS

Sec. 129. G.S. 14-197 reads as rewritten:

"§ *14-197. Using profane or indecent language on public highways; counties exempt.*

If any person shall, on any public road or highway and in the hearing of two or more persons, in a loud and boisterous manner, use indecent or profane language, he shall be guilty of a Class 3 misdemeanor. ~~misdemeanor and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ The following counties shall be exempt from the provisions of this section: Pitt and Swain."

-----OBSTRUCTING WAY TO PLACES OF PUBLIC WORSHIP

Sec. 130. G.S. 14-199 reads as rewritten:

"§ *14-199. Obstructing way to places of public worship.*

If any person shall maliciously stop up or obstruct the way leading to any place of public worship, or to any spring or well commonly used by the congregation, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----SECRETLY PEEPING INTO ROOM OCCUPIED BY FEMALE PERSON

Sec. 131. G.S. 14-202 reads as rewritten:

"§ *14-202. Secretly peeping into room occupied by female person.*

Any person who shall peep secretly into any room occupied by a female person shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.~~"

-----ADULT ESTABLISHMENTS

Sec. 132. G.S. 14-202.12 reads as rewritten:

"§ *14-202.12. Violations; penalties.*

Any person who violates G.S. 14-202.11 shall be guilty of a Class 3 misdemeanor. ~~misdemeanor and shall be imprisoned for a term not to~~

~~exceed three months or fined an amount not to exceed three hundred dollars ($300.00), or both, in the discretion of the court.~~ Any person who has been previously convicted of a violation of G.S. 14-202.11, upon conviction for a second or subsequent violation of G.S. 14-202.11, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor and shall be imprisoned for a term not to exceed six months or fined an amount not to exceed five hundred dollars ($500.00), or both, in the discretion of the court.~~

As used herein, 'person' shall include:

(1) The agent in charge of the building, premises, structure or facility; or

(2) The owner of the building, premises, structure or facility when such owner knew or reasonably should have known the nature of the business located therein, and such owner refused to cooperate with the public officials in reasonable measures designed to terminate the proscribed use; provided, however, that if there is an agent in charge, and if the owner did not have actual knowledge, the owner shall not be prosecuted; or

(3) The owner of the business; or

(4) The manager of the business."

-----LOITERING FOR PROSTITUTION

Sec. 133. G.S. 14-204.1(b) reads as rewritten:

"(b) If a person remains or wanders about in a public place and

(1) Repeatedly beckons to, stops, or attempts to stop passers-by, or repeatedly attempts to engage passers-by in conversation; or

(2) Repeatedly stops or attempts to stop motor vehicles; or

(3) Repeatedly interferes with the free passage of other persons

for the purpose of violating any subdivision of G.S. 14-204 or 14-177, that person is guilty of a Class 1 misdemeanor. ~~misdemeanor and, upon conviction, shall be punished as for a violation of G.S. 14-204.~~"

-----PROSTITUTION

Sec. 134. G.S. 14-208 reads as rewritten:

"*§ 14-208. Punishment; probation; parole.*

Any person who shall be deemed guilty in the first degree, as set forth in G.S. 14-207, shall be guilty of a Class 1 misdemeanor: ~~misdemeanor, and may be fined or imprisoned in the discretion of the court, or may be committed to any penal or reformatory institution in this State:~~ Provided, that in case of a commitment to a reformatory institution, the commitment shall be made for an indeterminate period of time of not less than one nor more than three years in duration, and the board of managers or directors of the reformatory institution

shall have authority to discharge or to place on parole any person so committed after the service of the minimum term or any part thereof, and to require the return to said institution for the balance of the maximum term of any person who shall violate the terms or conditions of the parole.

Notwithstanding the previous paragraph, any person who shall be deemed guilty in the first degree, as set forth in G.S. 14-207, shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and shall be imprisoned for not less than 60 days nor more than two years, and may be fined in the discretion of the court.~~ This paragraph applies only in cities with a population of 300,000 or over, according to the most recent decennial federal census, but shall only apply in a city within that class if the city has adopted an ordinance to that effect, which ordinance makes a finding that prostitution is a serious problem within the city.

Any person who shall be deemed guilty in the second degree, as set forth in G.S. 14-207, shall be guilty of a Class 1 misdemeanor: ~~misdemeanor, and shall be fined or imprisoned at the discretion of the court;~~ Provided, that the defendant may be placed on probation in the care of a probation officer designated by law, or theretofore appointed by the court.

Probation or parole shall be granted or ordered in the case of a person infected with venereal disease only on such terms and conditions as shall insure medical treatment therefor and prevent the spread thereof, and the court may order any convicted defendant to be examined for venereal disease.

No girl or woman who shall be convicted under this Article shall be placed on probation or on parole in the care or charge of any person except a woman probation officer."

-----REFUSAL OF WITNESS TO APPEAR OR TO TESTIFY IN INVESTIGATIONS OF LYNCHINGS

Sec. 135. G.S. 14-222 reads as rewritten:

"*§ 14-222. Refusal of witness to appear or to testify in investigations of lynchings.*

If any person summoned as a witness in the investigation of a charge of lynching shall willfully fail to attend as a witness in obedience to the process served on him, or if, after being sworn, he shall refuse to answer questions pertinent to the matter being investigated before any tribunal, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and, on conviction, shall be fined or imprisoned, or both, at the discretion of the court.~~"

-----RESISTING OFFICERS

Sec. 136. G.S. 14-223 reads as rewritten:

"*§ 14-223. Resisting officers.*

If any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge a duty of his office, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----FALSE, ETC., REPORTS TO POLICE RADIO BROADCASTING STATIONS

Sec. 137. G.S. 14-225 reads as rewritten:

"*§ 14-225. False, etc., reports to police radio broadcasting stations.*

Any person who shall willfully make or cause to be made to a police radio broadcasting station any false, misleading or unfounded report, for the purpose of interfering with the operation thereof, or to hinder or obstruct any peace officer in the performance of his duty, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----PICKETING OR PARADING

Sec. 138. G.S. 14-225.1 reads as rewritten:

"*§ 14-225.1. Picketing or parading.*

Any person who, with intent to interfere with, obstruct, or impede the administration of justice, or with intent to influence any justice or judge of the General Court of Justice, juror, witness, district attorney, assistant district attorney, or court officer, in the discharge of his duty, pickets, parades, or uses any sound truck or similar device within 300 feet of an exit from any building housing any court of the General Court of Justice, or within 300 feet of any building or residence occupied or used by such justice, judge, juror, witness, district attorney, assistant district attorney, or court officer, shall upon plea or conviction be guilty of a Class 1 misdemeanor. ~~misdemeanor and imprisoned for not more than two years or fined not more than one thousand dollars ($1000), or both.~~"

-----VIOLATING ORDERS OF COURT

Sec. 139. G.S. 14-226.1 reads as rewritten:

"*§ 14-226.1. Violating orders of court.*

Any person who shall willfully disobey or violate any injunction, restraining order, or any order lawfully issued by any court for the purpose of maintaining or restoring public safety and public order, or to afford protection for lives or property during times of a public crisis, disaster, riot, catastrophe, or when such condition is imminent, or for the purpose of preventing and abating disorderly conduct as defined in G.S. 14-288.4 shall be guilty of a Class 3 misdemeanor which may include a fine not to exceed two hundred fifty dollars ($250.00). ~~misdemeanor, and upon conviction, shall be fined not more than two hundred fifty dollars ($250.00) or imprisoned for not~~

~~more than 30 days, or both, in the discretion of the court.~~ This section shall not in any manner affect the court's power to punish for contempt."

-----FAILING TO BE WITNESS BEFORE LEGISLATIVE COMMITTEES

Sec. 140. G.S. 14-227 reads as rewritten:

"*§ 14-227. Failing to attend as witness before legislative committees.*

If any person shall willfully fail or refuse to attend or produce papers, on summons of any committee of investigation of either house of the General Assembly, either select or committee of the whole, he shall be guilty of a ~~misdemeanor, and on conviction in the superior court of the county in which such witness may reside or be found, he shall be~~ Class 3 misdemeanor and fined not less than five hundred dollars ($500.00) nor more than one thousand dollars ~~($1,000), and shall be subject to imprisonment at the discretion of the court.~~ ($1,000)."

-----SECRET LISTENING

Sec. 141. G.S. 14-227.3 reads as rewritten:

"*§ 14-227.3. Violation made misdemeanor.*

All persons violating the provisions of G.S. 14-227.1 or 14-227.2 shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----WILLFULLY FAILING TO DISCHARGE DUTIES

Sec. 142. G.S. 14-230 reads as rewritten:

"*§ 14-230. Willfully failing to discharge duties.*

If any clerk of any court of record, sheriff, magistrate, county commissioner, county surveyor, coroner, treasurer, or official of any of the State institutions, or of any county, city or town, shall willfully omit, neglect or refuse to discharge any of the duties of his office, for default whereof it is not elsewhere provided that he shall be indicted, he shall be guilty of a Class 1 misdemeanor. If it shall be proved that such officer, after his qualification, willfully and corruptly omitted, neglected or refused to discharge any of the duties of his office, or willfully and corruptly violated his oath of office according to the true intent and meaning thereof, such officer shall be guilty of misbehavior in office, and shall be punished by removal therefrom under the sentence of the court as a part of the punishment for the offense. ~~offense, and shall also be fined or imprisoned in the discretion of the court.~~"

-----FAILING TO MAKE REPORTS AND DISCHARGE OTHER DUTIES

Sec. 143. G.S. 14-231 reads as rewritten:

"*§ 14-231. Failing to make reports and discharge other duties.*

If any State or county officer shall fail, neglect or refuse to make, file or publish any report, statement or other paper, or to deliver to his successor all books and other property belonging to his office, or to pay over or deliver to the proper person all moneys which come into his hands by virtue or color of his office, or to discharge any duty devolving upon him by virtue of his office and required of him by law, he shall be guilty of a Class 1 misdemeanor."

-----SWEARING FALSELY TO OFFICIAL REPORTS

Sec. 144. G.S. 14-232 reads as rewritten:

"*§ 14-232. Swearing falsely to official reports.*

If any clerk, sheriff, register of deeds, county commissioner, county treasurer, magistrate or other county officer shall willfully swear falsely to any report or statement required by law to be made or filed, concerning or touching the county, State or school revenue, he shall be guilty of a Class 1 misdemeanor."

Sec. 145. G.S. 14-234(e) reads as rewritten:

"(e) Anyone violating this section shall be guilty of a Class 1 misdemeanor."

-----MISUSE OF CONFIDENTIAL INFORMATION

Sec. 146. G.S. 14-234.1(b) reads as rewritten:

"(b) Violation of this section is a Class 1 misdemeanor."

-----AGENT FOR THOSE FURNISHING SUPPLIES FOR INSTITUTIONS

Sec. 147. G.S. 14-236 reads as rewritten:

"*§ 14-236. Acting as agent for those furnishing supplies for schools and other State institutions.*

If any member of any board of directors, board of managers, board of trustees of any of the educational, charitable, eleemosynary or penal institutions of the State, or any member of any board of education, or any county or district superintendent or examiner of teachers, or any trustee of any school or other institution supported in whole or in part from any of the public funds of the State, or any officer, agent, manager, teacher or employee of such boards, shall have any pecuniary interest, either directly or indirectly, proximately or remotely in supplying any goods, wares or merchandise of any nature or kind whatsoever for any of said institutions or schools; or if any of such officers, agents, managers, teachers or employees of such institution or school or State or county officer shall act as agent for any manufacturer, merchant, dealer, publisher or author for any article of merchandise to be used by any of said institutions or schools; or shall receive, directly or indirectly, any gift, emolument, reward or promise of reward for his influence in recommending or procuring the use of any manufactured article, goods, wares or merchandise of any nature or kind whatsoever by any of such

institutions or schools, he shall be forthwith removed from his position in the public service, and shall upon conviction be deemed guilty of a Class 1 misdemeanor. ~~misdemeanor and fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) and be imprisoned, in the discretion of the court.~~

This section shall not apply to members of any board of education which is subject to and complies with the provisions of G.S. 14-234(d1)."

-----BUYING SCHOOL SUPPLIES FROM INTERESTED OFFICER

Sec. 148. G.S. 14-237 reads as rewritten:

"*§ 14-237. Buying school supplies from interested officer.*

If any county board of education or school committee shall buy school supplies in which any member has a pecuniary interest, the members of such board shall be removed from their positions in the public service and shall, upon conviction, be deemed guilty of a Class 1 misdemeanor.

This section shall not apply to members of any board of education which is subject to and complies with the provisions of G.S. 14-234(d1)."

-----SOLICITING DURING SCHOOL WITHOUT PERMISSION OF SCHOOL

Sec. 149. G.S. 14-238 reads as rewritten:

"*§ 14-238. Soliciting during school hours without permission of school head.*

No person, agent, representative or salesman shall solicit or attempt to sell or explain any article of property or proposition to any teacher or pupil of any public school on the school grounds or during the school day without having first secured the written permission and consent of the superintendent, principal or person actually in charge of the school and responsible for it.

Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----ALLOWING PRISONERS TO ESCAPE; PUNISHMENT

Sec. 150. G.S. 14-239 reads as rewritten:

"*§ 14-239. Allowing prisoners to escape; punishment.*

If any sheriff, deputy sheriff, or jailer, shall willfully or wantonly allow the escape of any person committed to his custody who is (i) a person charged with a crime, or (ii) a person sentenced by the court upon conviction of any offense, he shall be guilty of a Class 1 misdemeanor. No prosecution shall be brought against any such officer pursuant to this section by reason of a prisoner being allowed to participate pursuant to court order in any work release, work study,

community service, or other lawful program, or by reason of any such prisoner failing to return from participation in any such program."

-----DISPOSING OF PUBLIC DOCUMENTS OR REFUSING TO DELIVER THEM

Sec. 151. G.S. 14-241 reads as rewritten:

"*§ 14-241. Disposing of public documents or refusing to deliver them over to successor.*

It shall be the duty of the clerk of the superior court of each county, and every other person to whom the acts of the General Assembly, appellate division reports or other public documents are transmitted or deposited for the use of the county or the State, to keep the same safely in their respective offices; and if any such person having the custody of such books and documents, for the uses aforesaid, shall negligently and willfully dispose of the same, by sale or otherwise, or refuse to deliver over the same to his successor in office, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall be punished by a fine or imprisonment, or both, at the discretion of the court.~~"

-----FAILING TO RETURN PROCESS OR MAKING FALSE RETURN

Sec. 152. G.S. 14-242 reads as rewritten:

"*§ 14-242. Failing to return process or making false return.*

If any sheriff, deputy, or other officer, whether State or municipal, or any person who presumes to act as any such officer, not being by law authorized so to do, willfully refuses to return any precept, notice or process, to him tendered or delivered, which it is his duty to execute, or willfully makes a false return thereon, the person who willfully refused to make the return or willfully made the false return shall be guilty of a Class 1 misdemeanor."

-----FAILING TO SURRENDER TAX LIST FOR INSPECTION AND CORRECTION

Sec. 153. G.S. 14-243 reads as rewritten:

"*§ 14-243. Failing to surrender tax list for inspection and correction.*

If any tax collector shall refuse or fail to surrender his tax list for inspection or correction upon demand by the authorities imposing the tax, or their successors in office, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall be imprisoned not more than five years, and fined not exceeding one thousand dollars ($1,000), at the discretion of the court.~~"

-----FAILING TO FILE REPORT OF FINES OR PENALTIES

Sec. 154. G.S. 14-244 reads as rewritten:

"*§ 14-244. Failing to file report of fines or penalties.*

If any officer who is by law required to file any report or statement of fines or penalties with the county board of education shall fail so to

do at or before the time fixed by law for the filing of such report, he shall be guilty of a Class 1 misdemeanor."

-----EX-MAGISTRATE TO TURN OVER BOOKS, PAPERS AND MONEY

Sec. 155. G.S. 14-246 reads as rewritten:

"*§ 14-246. Failure of ex-magistrate to turn over books, papers and money.*

If any magistrate, on expiration of his term of office, or if any personal representative of a deceased magistrate shall, after demand upon him by the clerk of the superior court, willfully fail and refuse to deliver to the clerk of the superior court all dockets, all law and other books, all money, and all official papers which came into his hands by virtue or color of his office, he shall be guilty of a Class 1 misdemeanor."

-----PUBLICLY OWNED VEHICLE

Sec. 156. G.S. 14-251 reads as rewritten:

"*§ 14-251. Violation made misdemeanor.*

Any person, firm or corporation violating any of the provisions of G.S. 14-247 to 14-250 shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) and not more than five hundred dollars ($500.00), imprisonment for not more than six months, or both such fine and imprisonment.~~ Nothing in G.S. 14-247 through 14-251 shall apply to the purchase, use or upkeep or expense account of the car for the executive mansion and the Governor."

-----RAILROAD OFFICERS TO ACCOUNT WITH SUCCESSORS

Sec. 157. G.S. 14-253 reads as rewritten:

"*§ 14-253. Failure of certain railroad officers to account with successors.*

If the president and directors of any railroad company, and any person acting under them, shall, upon demand, fail or refuse to account with the president and directors elected or appointed to succeed them, and to transfer to them forthwith all the money, books, papers, choses in action, property and effects of every kind and description belonging to such company, they shall be guilty of a felony, and shall be punished by imprisonment in the State's prison for not less than one nor more than five years, and be fined at the discretion of the court. All persons conspiring with any such president, directors or their agents to defeat, delay or hinder the execution of this section shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall be punished in like manner.~~ The Governor is hereby authorized, at the request of the president, directors and other officers of any railroad company, to make requisition upon the

governor of any other state for the apprehension of any such president failing to comply with this section."

-----ESCAPE OF WORKING PRISONERS FROM CUSTODY

Sec. 158. G.S. 14-255 reads as rewritten:

"§ *14-255. Escape of working prisoners from custody.*

If any prisoner removed from the local confinement facility or satellite jail/work release unit of a county pursuant to G.S. 162-58 shall escape from the person having him in custody or the person supervising him, he shall be guilty of a Class 3 misdemeanor."

-----PRISON BREACH AND ESCAPE

Sec. 159. G.S. 14-256 reads as rewritten:

"§ *14-256. Prison breach and escape from county or municipal confinement facilities or officers.*

If any person shall break any prison, jail or lockup maintained by any county or municipality in North Carolina, being lawfully confined therein, or shall escape from the lawful custody of any superintendent, guard or officer of such prison, jail or lockup, he shall be guilty of a Class 1 misdemeanor, except that the person is guilty of a Class J felony if:

(1) He has been convicted of a felony and has been committed to the facility pending transfer to the State prison system; or

(2) He is serving a sentence imposed upon conviction of a felony."

-----FURNISHING CERTAIN CONTRABAND TO INMATES

Sec. 160. G.S. 14-258.1(b) reads as rewritten:

"(b) Any person who shall knowingly give or sell any alcoholic beverages to any inmate of any State mental or penal institution, or to any inmate of any local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall combine, confederate, conspire, procure, or procure another or others to give or sell any alcoholic beverages to any inmate of any such State institution or local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall bring into the buildings, grounds or other facilities of such institution any alcoholic beverages, except for medical purposes as prescribed by a duly licensed physician or sacramental wine brought by an ordained minister or rabbi for use as part of a religious service, shall be guilty of a ~~misdemeanor, and on conviction thereof shall be fined or imprisoned, in the discretion of the court.~~ Class 1 misdemeanor. If such person is an officer or

employee of any institution of the State, such person shall be dismissed from office."

-----HARBORING OR AIDING CERTAIN PERSONS

Sec. 161. G.S. 14-259 reads as rewritten:

"§ *14-259. Harboring or aiding certain persons.*

It shall be unlawful for any person knowing or having reasonable cause to believe, that any person has escaped from any prison, jail, reformatory, or from the criminal insane department of any State hospital, or from the custody of any peace officer who had such person in charge, or that such person is a convict or prisoner whose parole has been revoked, or that such person is a fugitive from justice or is otherwise the subject of an outstanding warrant for arrest or order of arrest, to conceal, hide, harbor, feed, clothe or otherwise aid and comfort in any manner to any such person. Fugitive from justice shall, for the purpose of this provision, mean any person who has fled from any other jurisdiction to avoid prosecution for a crime.

Every person who shall conceal, hide, harbor, feed, clothe, or offer aid and comfort to any other person in violation of this section shall be guilty of a felony, if such other person has been convicted of, or was in custody upon the charge of a felony, and shall be punished as a Class I felon; and shall be guilty of a ~~misdemeanor,~~ Class 1 misdemeanor, if such other person had been convicted of, or was in custody upon a charge of a misdemeanor, and shall be punished in the discretion of the court.

The provisions of this section shall not apply to members of the immediate family of such person. For the purposes of this section 'immediate family' shall be defined to be the mother, father, brother, sister, wife, husband and child of said person."

-----OFFENSES AGAINST PUBLIC PEACE

Sec. 162. G.S. 14-268 reads as rewritten:

"§ *14-268. Violation made misdemeanor.*

Any person violating the provisions of this Article shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and fined or imprisoned, in the discretion of the court.~~"

-----CARRYING CONCEALED WEAPONS

Sec. 163. G.S. 14-269(c) reads as rewritten:

"(c) Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor, and shall be punished by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----WEAPONS ON CAMPUS OR OTHER EDUCATIONAL PROPERTY

Sec. 164. G.S. 14-269.2 reads as rewritten:

"§ *14-269.2. Weapons on campus or other educational property.*

It shall be unlawful for any person to possess, or carry, whether openly or concealed, any gun, rifle, pistol, dynamite cartridge, bomb, grenade, mine, powerful explosive as defined in G.S. 14-284.1, bowie knife, dirk, dagger, slungshot, leaded cane, switch-blade knife, blackjack, metallic knuckles or any other weapon of like kind, not used solely for instructional or school sanctioned ceremonial purposes, in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field, or other property owned, used or operated by any board of education, school, college, or university board of trustees or directors for the administration of any public or private educational institution. For the purpose of this section a self-opening or switch-blade knife is defined as a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance, and the above phrase 'weapon of like kind' includes razors and razor blades (except solely for personal shaving) and any sharp pointed or edged instrument except unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance. This section shall not apply to the following persons: Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms or weapons, civil officers of the United States while in the discharge of their official duties, officers and soldiers of the militia and the national guard when called into actual service, officers of the State, or of any county, city, or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties, any pupils who are members of the Reserve Officer Training Corps and who are required to carry arms or weapons in the discharge of their official class duties, and any private police employed by the administration or board of trustees of any public or private institution of higher education when acting in the discharge of their duties.

Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor and upon conviction shall be punished in the discretion of the court.~~"

-----WEAPONS WHERE ALCOHOLIC BEVERAGES ARE SOLD AND CONSUMED

Sec. 165. G.S. 14-269.3(a) reads as rewritten:

"(a) It shall be unlawful for any person to carry any gun, rifle, or pistol into any assembly where a fee has been charged for admission thereto, or into any establishment in which alcoholic beverages are sold and consumed. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and upon~~

~~conviction shall be punished in the discretion of the court by fine or imprisonment or by both.~~"

-----WEAPONS ON STATE PROPERTY AND IN COURTHOUSES

Sec. 166. G.S. 14-269.4 reads as rewritten:

"*§ 14-269.4. Weapons on State property and in courthouses.*

It shall be unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings, and in any building housing any court of the General Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the court, then this prohibition shall apply only to that portion of the building used for court purposes while the building is being used for court purposes.

This section shall not apply to:

(1) Officers and enlisted personnel of the armed forces when in the discharge of their official duties as such and acting under orders requiring them to carry arms and weapons,

(2) Civil officers of the United States while in the discharge of their official duties,

(3) Officers and soldiers of the militia and the State guard when on duty or called into service,

(4) Officers or employees of the State, or any county, city, or town charged with the execution of the laws of the State, when acting in the discharge of their official duties if authorized by law to carry weapons,

(4a) Any person in a building housing a court of the General Court of Justice in possession of a weapon for evidenciary purposes, to deliver it to a law enforcement agency, or for purposes of registration,

(5) State-owned rest areas, rest stops along the highways, and State-owned hunting and fishing reservations.

Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and upon conviction shall be punished in the discretion of the court by fine or imprisonment or by both such fine and imprisonment.~~"

-----POSSESSION AND SALE OF SPRING-LOADED PROJECTILE KNIVES PROHIBITED

Sec. 167. G.S. 14-269.6(b) reads as rewritten:

"(b) Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and upon conviction shall be punished in the discretion of the court by fine or imprisonment or by both.~~"

-----DISORDERLY CONDUCT AT BUS OR RAILROAD STATION OR AIRPORT

Sec. 168. G.S. 14-275.1 reads as rewritten:

"*§ 14-275.1. Disorderly conduct at bus or railroad station or airport.*

Any person shall be guilty of a ~~misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days, in the discretion of the court,~~ Class 3 misdemeanor, if such person while at, or upon the premises of,

(1) Any bus station, depot or terminal, or
(2) Any railroad passenger station, depot or terminal, or
(3) Any airport or air terminal used by any common carrier, or
(4) Any airport or air terminal owned or leased, in whole or in part, by any county, municipality or other political subdivision of the State, or privately owned airport

shall

(1) Engage in disorderly conduct, or
(2) Use vulgar, obscene or profane language, or
(3) On any one occasion, without having necessary business there, loiter and loaf upon the premises after being requested to leave by any peace officer or by any person lawfully in charge of such premises."

-----IMPERSONATION OF EMERGENCY PERSONNEL

Sec. 169. G.S. 14-276.1 reads as rewritten:

"*§ 14-276.1. Impersonation of firemen or emergency medical services personnel.*

It is a ~~misdemeanor, punishable by imprisonment not to exceed 30 days,~~ Class 3 misdemeanor, for any person, with intent to deceive, to impersonate a fireman or any emergency medical services personnel, whether paid or voluntary, by a false statement, display of insignia, emblem, or other identification on his person or property, or any other act, which indicates a false status of affiliation, membership, or level of training or proficiency, if:

(1) The impersonation is made with intent to impede the performance of the duties of a fireman or any emergency medical services personnel, or
(2) Any person reasonably relies on the impersonation and as a result suffers injury to person or property.

For purposes of this section, emergency medical services personnel means an ambulance attendant, emergency medical technician, emergency medical technician intermediates, emergency medical technician paramedics, or other member of a rescue squad or other emergency medical organization."

-----IMPERSONATION OF A LAW-ENFORCEMENT OR OTHER PUBLIC OFFICER

Sec. 170. G.S. 14-277(d) reads as rewritten:

"(d) Violation of subsection (a) of this section is a ~~misdemeanor punishable under G.S. 14-3(a).~~ Class 1 misdemeanor. Violation of subsection (b) of this section is a Class 1 misdemeanor. Upon conviction under subsection (b), ~~the trial judge must sentence the defendant to a term of imprisonment of not less than 72 hours and not more than two years. The~~ the term of imprisonment may be suspended on condition that the defendant:

(1) Be imprisoned for a term of at least 72 hours as a condition of special probation; or
(2) Perform community service for a term of 72 hours;
(3) Pay a fine in the discretion of the court; or
(4) Any combination of these conditions.

The judge may, in his discretion, impose any other lawful condition of probation."

Sec. 171. G.S. 14-277(e) reads as rewritten:

"(e) It shall be unlawful for any person other than duly authorized employees of a county, a municipality or the State of North Carolina, including but not limited to, the Department of Social Services, Health, Area Mental Health, Developmental Disabilities, and Substance Abuse Authority or Building Inspector to represent to any person that they are duly authorized employees of a county, a municipality or the State of North Carolina or one of the above-enumerated departments and acting upon such representation to perform any act, make any investigation, seek access to otherwise confidential information, perform any duty of said office, gain access to any place not otherwise open to the public, or seek to be afforded any privilege which would otherwise not be afforded to such person except for such false representation or make any attempt to do any of said enumerated acts. Any person, corporation, or business association violating the provisions of this section shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and upon conviction may be fined or imprisoned at the discretion of the court.~~"

-----COMMUNICATING THREATS

Sec. 172. G.S. 14-277.1 reads as rewritten:

"§ *14-277.1. Communicating threats.*

(a) A person is guilty of a Class 1 misdemeanor if without lawful authority:

(1) He willfully threatens to physically injure the person or damage the property of another;
(2) The threat is communicated to the other person, orally, in writing, or by any other means;

(3) The threat is made in a manner and under circumstances which would cause a reasonable person to believe that the threat is likely to be carried out; and

(4) The person threatened believes that the threat will be carried out.

(b) A violation of this section is a Class 1 misdemeanor. ~~punishable by a fine of not more than five hundred dollars ($500.00), imprisonment of not more than six months, or both.~~"

-----STALKING.

Sec. 173. G.S. 14-277.3(b) reads as rewritten:

"(b) Classification. -- A violation of this section is a ~~misdemeanor punishable by imprisonment up to six months, a fine up to one thousand dollars ($1,000), or both.~~ Class 2 misdemeanor. A person who commits the offense of stalking when there is a court order in effect prohibiting similar behavior is ~~punishable by imprisonment up to two years, a fine up to two thousand dollars ($2,000), or both.~~ guilty of a Class 1 misdemeanor. A second or subsequent conviction for stalking occurring within five years of a prior conviction of the same defendant is punishable as a Class I felony."

-----WEAPONS AT PARADES, ETC., PROHIBITED

Sec. 174. G.S. 14-277.2(a) reads as rewritten:

"(a) It shall be unlawful for any person participating in, affiliated with, or present as a spectator at any parade, funeral procession, picket line, or demonstration upon any public place owned or under the control of the State or any of its political subdivisions to willfully or intentionally possess or have immediate access to any dangerous weapon. Violation of this subsection shall be a Class 1 misdemeanor. It shall be presumed that any rifle or gun carried on a rack in a pickup truck at a holiday parade or in a funeral procession does not violate the terms of this act."

-----UNLAWFUL INJURY TO PROPERTY OF RAILROADS

Sec. 175. G.S. 14-279 reads as rewritten:

"§ *14-279. Unlawful injury to property of railroads.*

Any person who, without intent to cause injury to any person or damage to equipment, commits any of the acts referred to in G.S. 14-278 shall be guilty of a Class 2 misdemeanor."

-----UNLAWFUL IMPAIRMENT OF OPERATION OF RAILROADS

Sec. 176. G.S. 14-279.1 reads as rewritten:

"§ *14-279.1. Unlawful impairment of operation of railroads.*

Any person who, without authorization of the affected railroad company, shall willfully do or cause to be done any act to railroad engines, equipment, or rolling stock so as to impede or prevent

movement of railroad trains or so as to impair the operation of railroad equipment shall be guilty of a Class 2 misdemeanor."

-----OPERATING TRAINS AND STREETCARS WHILE INTOXICATED.

Sec. 177. G.S. 14-281 reads as rewritten:

"§ *14-281. Operating trains and streetcars while intoxicated.*

Any train dispatcher, telegraph operator, engineer, fireman, flagman, brakeman, switchman, conductor, motorman, or other employee of any steam, street, suburban or interurban railway company, who shall be intoxicated while engaged in running or operating, or assisting in running or operating, any railway train, shifting-engine, or street or other electric car, shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----THROWING, DROPPING, ETC., OBJECTS AT SPORTING EVENTS

Sec. 178. G.S. 14-281.1 reads as rewritten:

"§ *14-281.1. Throwing, dropping, etc., objects at sporting events.*

It shall be unlawful for any person to throw, drop, pour, release, discharge, expose or place in an area where an athletic contest or sporting event is taking place any substance or object that shall be likely to cause injury to persons participating in or attending such contests or events or to cause damage to animals, vehicles, equipment, devices, or other things used in connection with such contests or events. Any person violating the provisions of this section shall be guilty of a Class 3 misdemeanor. ~~misdemeanor, and upon conviction shall be fined not more than one hundred dollars ($100.00) or imprisoned not more than 30 days, or both, in the discretion of the court.~~"

-----EXPLODING DYNAMITE CARTRIDGES AND BOMBS

Sec. 179. G.S. 14-283 reads as rewritten:

"§ *14-283. Exploding dynamite cartridges and bombs.*

If any person shall fire off or explode, or cause to be fired off or exploded, except for mechanical purposes in a legitimate business, any dynamite cartridge, bomb or other explosive of a like nature, he shall be guilty of a Class 1 misdemeanor."

-----KEEPING FOR SALE OR SELLING EXPLOSIVES WITHOUT A LICENSE

Sec. 180. G.S. 14-284 reads as rewritten:

"§ *14-284. Keeping for sale or selling explosives without a license.*

If any dealer or other person shall sell or keep for sale any dynamite cartridges, bombs or other combustibles of a like kind, without first having obtained from the board of commissioners of the

county where such person or dealer resides a license for that purpose, he shall be guilty of a Class 1 misdemeanor."

-----REGULATION OF SALE OF EXPLOSIVES; REPORTS; STORAGE

Sec. 181. G.S. 14-284.1(e) reads as rewritten:

"(e) Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----FALSE FIRE ALARMS; MOLESTING FIRE-ALARM SYSTEM

Sec. 182. G.S. 14-286 reads as rewritten:

"*§ 14-286. Giving false fire alarms; molesting fire-alarm, fire- detection or fire-extinguishing system.*

It shall be unlawful for any person or persons to wantonly and willfully give or cause to be given, or to advise, counsel, or aid and abet anyone in giving, a false alarm of fire, or to break the glass key protector, or to pull the slide, arm, or lever of any station or signal box of any fire-alarm system, except in case of fire, or willfully misuse or damage a portable fire extinguisher, or in any way to willfully interfere with, damage, deface, molest, or injure any part or portion of any fire-alarm, fire-detection, smoke-detection or fire-extinguishing system. Any person violating any of the provisions of this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----MAKING FALSE AMBULANCE REQUEST

Sec. 183. G.S. 14-286.1 reads as rewritten:

"*§ 14-286.1. Making false ambulance request.*

It shall be unlawful for any person to willfully summon an ambulance or willfully report that an ambulance is needed when such person does not have good cause to believe that the services of an ambulance are needed. Every person convicted of willfully violating this section shall be guilty of a Class 3 misdemeanor. ~~upon conviction be punished by a fine not to exceed fifty dollars ($50.00) or imprisonment not to exceed 30 days or both such fine and imprisonment.~~"

-----INTERFERING WITH EMERGENCY COMMUNICATION

Sec. 184. G.S. 14-286.2(a) reads as rewritten:

"(a) Offense. -- A person who, without authorization, intentionally interferes with an emergency radio communication, knowing that the communication is an emergency communication, and who is not making an emergency communication himself, is guilty of a misdemeanor and is punishable by:

(1) ~~A fine of up to one thousand dollars ($1,000) and imprisonment for up to one year~~ Class 1 misdemeanor if, as a result of the interference, serious bodily injury or property damage in excess of one thousand dollars ($1,000) occurs; or

(2) ~~A fine of up to five hundred dollars ($500.00) and imprisonment for up to six months~~ Class 2 misdemeanor if a result described in subdivision (1) does not occur."

-----LEAVING UNUSED WELL OPEN AND EXPOSED

Sec. 185. G.S. 14-287 reads as rewritten:

"§ *14-287. Leaving unused well open and exposed.*

It shall be unlawful for any person, firm or corporation, after discontinuing the use of any well, to leave said well open and exposed; said well, after the use of same has been discontinued, shall be carefully and securely filled: Provided, that this shall not apply to wells on farms that are protected by curbing or board walls. Any person violating any of the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----UNLAWFUL TO POLLUTE ANY BOTTLES USED FOR BEVERAGES

Sec. 186. G.S. 14-288 reads as rewritten:

"§ *14-288. Unlawful to pollute any bottles used for beverages.*

It shall be unlawful for any person, firm or corporation having custody for the purpose of sale, distribution or manufacture of any beverage bottle, to place, cause or permit to be placed therein turpentine, varnish, wood alcohol, bleaching water, bluing, kerosene, oils, or any unclean or foul substance, or other offensive material, or to send, ship, return and deliver or cause or permit to be sent, shipped, returned or delivered to any producer of beverages, any bottle used as a container for beverages, and containing any turpentine, varnish, wood alcohol, bleaching water, bluing, kerosene, oils, or any unclean or foul substance, or other offensive material. Any person, firm or corporation violating the provisions of this section shall be guilty of a Class 3 misdemeanor, and upon conviction shall be fined on the first offense, one dollar ($1.00) for each bottle so defiled, and for any subsequent offense not more than ten dollars ($10.00) for each bottle so defiled."

----- RIOT; INCITING TO RIOT; PUNISHMENTS

Sec. 187. G.S. 14-288.2(b) reads as rewritten:

"(b) Any person who willfully engages in a riot is guilty of a Class 1 misdemeanor. ~~misdemeanor punishable as provided in G.S. 14-3(a).~~"

Sec. 188. G.S. 14-288.2(d) reads as rewritten:

"(d) Any person who willfully incites or urges another to engage in a riot, so that as a result of such inciting or urging a riot occurs or a clear and present danger of a riot is created, is guilty of a Class 1 misdemeanor. ~~misdemeanor punishable as provided in G.S. 14-3(a).~~"

-----DISORDERLY CONDUCT

Sec. 189. G.S. 14-288.4(b) reads as rewritten:

"(b) Any person who willfully engages in disorderly conduct is guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than six months.~~ Class 2 misdemeanor. "

-----FAILURE TO DISPERSE WHEN COMMANDED

Sec. 190. G.S. 14-288.5(b) reads as rewritten:

"(b) Any person who fails to comply with a lawful command to disperse is guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than six months.~~"

-----LOOTING; TRESPASS DURING EMERGENCY

Sec. 191. G.S. 14-288.6(a) reads as rewritten:

"(a) Any person who enters upon the premises of another without legal justification when the usual security of property is not effective due to the occurrence or aftermath of riot, insurrection, invasion, storm, fire, explosion, flood, collapse, or other disaster or calamity is guilty of ~~the~~ a Class 1 misdemeanor of trespass during ~~emergency and is punishable as provided in G.S. 14-3(a).~~ an emergency."

-----TRANSPORTING WEAPON OR SUBSTANCE DURING EMERGENCY

Sec. 192. G.S. 14-288.7(c) reads as rewritten:

"(c) Any person who violates any provision of this section is guilty of a Class 1 misdemeanor. ~~misdemeanor punishable as provided in G.S. 14-3(a).~~"

-----ASSAULT ON EMERGENCY PERSONNEL; PUNISHMENTS

Sec. 193. G.S. 14-288.9(c) reads as rewritten:

"(c) Any person who commits an assault upon emergency personnel is guilty of a ~~misdemeanor punishable as provided in G.S. 14-3(a)~~ Class 1 misdemeanor. Any person who commits an assault upon emergency personnel with or through the use of any dangerous weapon or substance shall be punished as a Class I felon."

-----MUNICIPAL ORDINANCES TO DEAL WITH EMERGENCY

Sec. 194. G.S. 14-288.12(e) reads as rewritten:

"(e) Any person who violates any provision of an ordinance or a proclamation enacted or proclaimed under the authority of this section is guilty of a Class 3 misdemeanor. ~~misdemeanor punishable as provided in G.S. 14-4.~~"

-----COUNTY ORDINANCES TO DEAL WITH EMERGENCY

Sec. 195. G.S. 14-288.13(d) reads as rewritten:

"(d) Any person who violates any provision of an ordinance or a proclamation enacted or proclaimed under the authority of this section is guilty of a Class 3 misdemeanor. ~~misdemeanor punishable as provided in G.S. 14-4.~~"

-----CHAIRMAN OF COUNTY COMMISSION TO EXTEND RESTRICTIONS

Sec. 196. G.S. 14-288.14(e) reads as rewritten:

"(e) Any person who violates any provision of any prohibition or restriction extended by proclamation under the authority of this section is guilty of a Class 3 misdemeanor. ~~misdemeanor punishable by a fine not to exceed fifty dollars ($50.00) or imprisonment for not more than 30 days.~~"

-----AUTHORITY OF GOVERNOR IN EMERGENCIES

Sec. 197. G.S. 14-288.15(e) reads as rewritten:

"(e) Any person who violates any provision of a proclamation of the Governor issued under the authority of this section is guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than six months.~~"

-----GOVERNOR'S POWER TO ORDER EVACUATION OF PUBLIC BUILDING

Sec. 198. G.S. 14-288.19(b) reads as rewritten:

"(b) Any person who willfully refuses to leave the building as directed in the Governor's order shall be guilty of a Class 2 misdemeanor.~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than six months, or both, in the discretion of the court.~~"

-----ADVERTISING LOTTERIES

Sec. 199. G.S. 14-289 reads as rewritten:

"§ *14-289. Advertising lotteries.*

Except in connection with a lawful raffle as provided in Part 2 of this Article, if anyone by writing or printing or by circular or letter or in any other way, advertise or publish an account of a lottery, whether within or without this State, stating how, when or where the same is to be or has been drawn, or what are the prizes therein or any of them, or the price of a ticket or any share or interest therein, or where or how it may be obtained, he shall be guilty of a Class 2 misdemeanor."

-----DEALING IN LOTTERIES

Sec. 200. G.S. 14-290 reads as rewritten:

"§ *14-290. Dealing in lotteries.*

Except in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall open, set on foot, carry on, promote, make or draw, publicly or privately, a lottery, by whatever name, style or title the same may be denominated or known; or if any person shall, by such way and means, expose or set to sale any house, real estate, goods, chattels, cash, written evidence of debt, certificates of claims or any other thing of value whatsoever, every person so offending shall be guilty of a ~~misdemeanor, and shall be fined not exceeding two thousand dollars ($2,000) or imprisoned not exceeding six months, or both, in the discretion of the court.~~ Class 2 misdemeanor which may include a fine not to exceed two thousand dollars ($2,000). Any person who engages in disposing of any species of property whatsoever, including money and evidences of debt, or in any manner distributes gifts or prizes upon tickets, bottle crowns, bottle caps, seals on containers, other devices or certificates sold for that purpose, shall be held liable to prosecution under this section. Any person who shall have in his possession any tickets, certificates or orders used in the operation of any lottery shall be held liable under this section, and the mere possession of such tickets shall be *prima facie* evidence of the violation of this section."

-----SELLING LOTTERY TICKETS AND ACTING AS AGENT FOR LOTTERIES

Sec. 201. G.S. 14-291 reads as rewritten:

"*§ 14-291. Selling lottery tickets and acting as agent for lotteries.*

Except in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall sell, barter or otherwise dispose of any lottery ticket or order for any number of shares in any lottery, or shall in anywise be concerned in such lottery, by acting as agent in the State for or on behalf of any such lottery, to be drawn or paid either out of or within the State, such person shall be guilty of a ~~misdemeanor, and shall be punished as provided for in G.S. 14-290.~~ Class 2 misdemeanor."

-----SELLING "NUMBERS" TICKETS

Sec. 202. G.S. 14-291.1 reads as rewritten:

"*§ 14-291.1. Selling 'numbers' tickets; possession prima facie evidence of violation.*

Except in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall sell, barter or cause to be sold or bartered, any ticket, token, certificate or order for any number or shares in any lottery, commonly known as the numbers or butter and egg lottery, or lotteries of similar character, to be drawn or paid within or without the State, such person shall be guilty of a ~~misdemeanor and shall be punished by fine or imprisonment, or both, in the discretion of the court.~~ Class 2 misdemeanor. Any person who

shall have in his possession any tickets, tokens, certificates or orders used in the operation of any such lottery shall be guilty under this section, and the possession of such tickets shall be *prima facie* evidence of the violation of this section."

-----PYRAMID AND CHAIN SCHEMES PROHIBITED

Sec. 203. G.S. 14-291.2(a) reads as rewritten:

"(a) Any person who shall establish, promote, operate or participate in any pyramid distribution plan, program, device or scheme whereby a participant pays a valuable consideration for the opportunity or chance to receive a fee or compensation upon the introduction of other participants into the program, whether or not such opportunity or chance is received in conjunction with the purchase of merchandise, shall be deemed to have participated in a lottery and shall be guilty of a Class 2 misdemeanor. ~~punished as provided for in G.S. 14-290.~~"

-----GAMBLING

Sec. 204. G.S. 14-292 reads as rewritten:

"§ *14-292. Gambling.*

Except as provided in Part 2 of this Article, any person or organization that operates any game of chance or any person who plays at or bets on any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor."

-----ALLOWING GAMBLING IN HOUSES OF PUBLIC ENTERTAINMENT

Sec. 205. G.S. 14-293 reads as rewritten:

"§ *14-293. Allowing gambling in houses of public entertainment; penalty.*

If any keeper of an ordinary or other house of entertainment, or of a house wherein alcoholic beverages are retailed, shall knowingly suffer any game, at which money or property, or anything of value, is bet, whether the same be in stake or not, to be played in any such house, or in any part of the premises occupied therewith; or shall furnish persons so playing or betting either on said premises or elsewhere with drink or other thing for their comfort or subsistence during the time of play, he shall be guilty of a ~~misdemeanor, and shall be fined not less than five hundred dollars ($500.00) and be imprisoned not less than six months.~~ Class 2 misdemeanor. Any person who shall be convicted under this section shall, upon such conviction, forfeit his license to do any of the businesses mentioned in this section, and shall be forever debarred from doing any of such businesses in this State. The court shall embody in its judgment that such person has forfeited his license, and no board of county commissioners, board of town commissioners or board of aldermen shall thereafter have power or authority to grant to such convicted

person or his agent a license to do any of the businesses mentioned herein."

-----GAMBLING WITH FARO BANKS AND TABLES

Sec. 206. G.S. 14-294 reads as rewritten:

"§ *14-294. Gambling with faro banks and tables.*

If any person shall open, establish, use or keep a faro bank, or a faro table, with the intent that games of chance may be played thereat, or shall play or bet thereat any money, property or other thing of value, whether the same be in stake or not, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor, and shall be fined at least two hundred dollars ($200.00) and imprisoned not less than three months.~~"

-----KEEPING GAMING DEVICES

Sec. 207. G.S. 14-295 reads as rewritten:

"§ *14-295. Keeping gaming tables, illegal punchboards or slot machines, or betting thereat.*

If any person shall establish, use or keep any gaming table (other than a faro bank), by whatever name such table may be called, an illegal punchboard or an illegal slot machine, at which games of chance shall be played, he shall ~~on conviction thereof be fined not less than two hundred dollars ($200.00) and shall be imprisoned not less than 30 days;~~ be guilty of a Class 2 misdemeanor; and every person who shall play thereat or thereat bet any money, property or other thing of value, whether the same be in stake or not, shall be guilty of a Class 2 ~~misdemeanor, and shall be fined not less than ten dollars ($10.00),~~ misdemeanor."

-----ALLOWING GAMING DEVICES

Sec. 208. G.S. 14-297 reads as rewritten:

"§ *14-297. Allowing gaming tables, illegal punchboards or slot machines on premises.*

If any person shall knowingly suffer to be opened, kept or used in his house or on any part of the premises occupied therewith, any of the gaming tables prohibited by G.S. 14-289 through 14-300 or any illegal punchboard or illegal slot machine, he shall forfeit and pay to any one who will sue therefor two hundred dollars ($200.00), and shall also be guilty of a Class 2 misdemeanor. ~~misdemeanor and fined and imprisoned.~~"

-----DESTRUCTION OF GAMING DEVICES

Sec. 209. G.S. 14-300 reads as rewritten:

"§ *14-300. Opposing destruction of gaming tables and seizure of property.*

If any person shall oppose the destruction of any prohibited gaming table, or the seizure of any moneys, property or other thing staked on forbidden games, or shall take and carry away the same or any part

thereof after seizure, he shall forfeit and pay to the person so opposed one thousand dollars ($1,000), for the use of the State and the person so opposed, and shall, moreover, be guilty of a Class 2 misdemeanor."

-----SLOT MACHINES, VENDING MACHINES AND OTHER GAMBLING DEVICES

Sec. 210. G.S. 14-303 reads as rewritten:

"§ *14-303. Violation of two preceding sections a misdemeanor.*

A violation of any of the provisions of G.S. 14-301, 14-302 shall be a ~~misdemeanor punishable by a fine or imprisonment, or, in the discretion of the court, by both.~~ Class 2 misdemeanor."

-----MANUFACTURE AND SALE OF SLOT MACHINES AND DEVICES

Sec. 211. G.S. 14-309 reads as rewritten:

"§ *14-309. Violation made misdemeanor.*

Any person who violates any provision of G.S. 14-304 through 14-309 is guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class 2 misdemeanor."

-----BINGO

Sec. 212. G.S. 14-309.5(b) reads as rewritten:

"(b) It is lawful for an exempt organization to conduct bingo games in accordance with the provisions of this Part. Any licensed exempt organization who conducts a bingo game in violation of any provision of this Part shall be guilty of a ~~misdemeanor under G.S. 14-292 and shall be punished in accordance with G.S. 14-3.~~ Class 2 misdemeanor. Upon conviction such person shall not conduct a bingo game for a period of one year. It is lawful to participate in a bingo game conducted pursuant to this Part. It shall be a Class H felony for any person: (i) to operate a bingo game without a license; (ii) to operate a bingo game while license is revoked or suspended; (iii) to willfully misuse or misapply any moneys received in connection with any bingo game; or (iv) to contract with or provide consulting services to any licensee. It shall not constitute a violation of any State law to advertise a bingo game conducted in accordance with this Part."

-----ACCOUNTING AND USE OF PROCEEDS

Sec. 213. G.S. 14-309.11(c) reads as rewritten:

"(c) Any person who shall willfully furnish, supply, or otherwise give false information in any audit or statement filed pursuant to this section shall be guilty of a Class 2 misdemeanor."

-----BEACH BINGO

Sec. 214. G.S. 14-309.14(a) reads as rewritten:

"(a) No beach bingo game may offer a prize having a value greater than ten dollars ($10.00). Any person offering a greater than ten-dollar ($10.00) but less than fifty-dollar ($50.00) prize is guilty of a

Class 2 misdemeanor. Any person offering a prize of fifty dollars ($50.00) or greater is guilty of a Class H felony."

Sec. 215. G.S. 14-309.15(a) reads as rewritten:

"(a) It is lawful for any nonprofit organization or association, recognized by the Department of Revenue as tax-exempt pursuant to G.S. 105-130.11(a), to conduct raffles in accordance with this section. Any person who conducts a raffle in violation of any provision of this section shall be guilty of a ~~misdemeanor under G.S. 14-292 and shall be punished in accordance with G.S. 14-3.~~ Class 2 misdemeanor. Upon conviction that person shall not conduct a raffle for a period of one year. It is lawful to participate in a raffle conducted pursuant to this section. It shall not constitute a violation of State law to advertise a raffle conducted in accordance with this section. A raffle conducted pursuant to this section is not 'gambling'."

-----SELLING CIGARETTES TO MINORS

Sec. 216. G.S. 14-313 reads as rewritten:

"*§ 14-313. Selling cigarettes to minors.*

If any person shall knowingly sell, give away or otherwise dispose of, directly or indirectly, cigarettes, or tobacco in the form of cigarettes, or cut tobacco in any form or shape which may be used or intended to be used as a substitute for cigarettes, or cigarette wrapping papers, or a smokeless tobacco product to any minor under the age of 18 years, or if any person shall knowingly aid, assist or abet any other person in selling such articles to such minor, he shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor. As used in this section, 'smokeless tobacco product' means (i) loose tobacco or a flat compressed cake of tobacco that may be chewed or held in the mouth or (ii) shredded, powdered, or pulverized tobacco that may be inhaled through the nostrils, chewed, or held in the mouth."

-----SELLING OR GIVING WEAPONS TO MINORS

Sec. 217. G.S. 14-315 reads as rewritten:

"*§ 14-315. Selling or giving weapons to minors.*

If any person shall knowingly sell, offer for sale, give or in any way dispose of to a minor any pistol or pistol cartridge, brass knucks, bowie knife, dirk, shurikin, loaded cane or slingshot, he shall be guilty of a Class 1 misdemeanor."

-----PERMITTING YOUNG CHILDREN TO USE DANGEROUS FIREARMS

Sec. 218. G.S. 14-316(a) reads as rewritten:

"(a) It shall be unlawful for any parent, guardian, or person standing in *loco parentis*, to knowingly permit his child under the age of 12 years to have the possession, custody or use in any manner

whatever, any gun, pistol or other dangerous firearm, whether such weapon be loaded or unloaded, except when such child is under the supervision of the parent, guardian or person standing in *loco parentis*. It shall be unlawful for any other person to knowingly furnish such child any weapon enumerated herein. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. ~~misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~"

-----CONTRIBUTING TO DELINQUENCY

Sec. 219. G.S. 14-316.1 reads as rewritten:

"§ *14-316.1. Contributing to delinquency and neglect by parents and others.*

Any person who is at least 16 years old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7A-517 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Department of Human Resources under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Division of Youth Services who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile."

-----PERMITTING MINORS TO ENTER BARROOMS OR BILLIARD ROOMS

Sec. 220. G.S. 14-317 reads as rewritten:

"§ *14-317. Permitting minors to enter barrooms or billiard rooms.*

If the manager or owner of any barroom, wherein beer, wine, or any alcoholic beverages are sold or consumed, or billiard room shall knowingly allow any minor under 18 years of age to enter or remain in such barroom or billiard room, where before such minor under 18 years of age enters or remains in such barroom or billiard room, the manager or owner thereof has been notified in writing by the parents or guardian of such minor under 18 years of age not to allow him to enter or remain in such barroom or billiard room, he shall be guilty of a ~~misdemeanor and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor."

-----EXPOSING CHILDREN TO FIRE

Sec. 221. G.S. 14-318 reads as rewritten:

"*§ 14-318. Exposing children to fire.*

If any person shall leave any child under the age of eight years locked or otherwise confined in any dwelling, building or enclosure, and go away from such dwelling, building or enclosure without leaving some person of the age of discretion in charge of the same, so as to expose the child to danger by fire, the person so offending shall be guilty of a ~~misdemeanor, and shall be punished at the discretion of the court.~~ Class 1 misdemeanor."

-----DISCARDING OR ABANDONING ICEBOXES

Sec. 222. G.S. 14-318.1 reads as rewritten:

"*§ 14-318.1. Discarding or abandoning iceboxes, etc.; precautions required.*

It shall be unlawful for any person, firm or corporation to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than one and one-half cubic feet of clear space which is airtight, without first removing the door or doors or hinges from such icebox, refrigerator, container, device or equipment. This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor ~~misdemeanor, and upon conviction shall be punished at the discretion of the court.~~"

-----CHILD ABUSE A GENERAL MISDEMEANOR

Sec. 223. G.S. 14-318.2 reads as rewritten:

"*§ 14-318.2. Child abuse a general misdemeanor.*

(a) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means is guilty of the Class 1 misdemeanor of child abuse.

(b) The Class 1 misdemeanor of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or ~~remedies, and is punishable as provided in G.S. 14-3(a),~~ remedies."

-----FAILING TO PAY MINORS FOR DOING CERTAIN WORK

Sec. 224. G.S. 14-321 reads as rewritten:

"*§ 14-321. Failing to pay minors for doing certain work.*

Whenever any person, having a contract with any corporation, company or person for the manufacture or change of any raw material by the piece or pound, shall employ any minor to assist in the work upon the faith of and by color of such contract, with intent to cheat and defraud such minor, and, having secured the contract price, shall willfully fail to pay the minor when he shall have performed his part of the contract work, whether done by the day or by the job, the person so offending shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----ABANDONMENT AND FAILURE TO SUPPORT SPOUSE AND CHILDREN

Sec. 225. G.S. 14-322(b) reads as rewritten:

"(b) Any supporting spouse who shall willfully abandon a dependent spouse without providing that spouse with adequate support shall be guilty of a Class 1 or 2 misdemeanor and upon conviction shall be punished according to subsection (f)."

Sec. 226. G.S. 14-322(f) reads as rewritten:

"(f) A first offense under this section ~~shall be punishable by a fine not exceeding five hundred dollars ($500.00), or by imprisonment for not more than six months, or both.~~ is a Class 2 misdemeanor. A second or subsequent offense ~~shall be a misdemeanor punishable by fine, or by imprisonment for not more than two years, or both.~~ is a Class 1 misdemeanor."

-----PARENTS; FAILURE TO SUPPORT

Sec. 227. G.S. 14-326.1 reads as rewritten:

"*§ 14-326.1. Parents; failure to support.*

If any person being of full age, and having sufficient income after reasonably providing for his or her own immediate family shall, without reasonable cause, neglect to maintain and support his or her parent or parents, if such parent or parents be sick or not able to work and have not sufficient means or ability to maintain or support themselves, such person shall be deemed guilty of a ~~misdemeanor, and, upon conviction, shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment not exceeding six months, or both, in the discretion of the court;~~ Class 2 misdemeanor; upon conviction of a second or subsequent offense ~~he or she shall be punished by fine or by imprisonment not exceeding two years, or both, in the discretion of the court.~~ such person shall be guilty of a Class 1 misdemeanor.

If there be more than one person bound under the provisions of the next preceding paragraph to support the same parent or parents, they shall share equitably in the discharge of such duty."

-----POISONOUS ALCOHOLIC BEVERAGES

Sec. 228. G.S. 14-329(c) reads as rewritten:

"(c) Any person who, either individually or as agent for any person, firm or corporation, shall transport for other than personal use, sell or possess for purpose of sale, any spirituous liquor to be used as a beverage which is found to contain any foreign properties or ingredients poisonous to the human system, shall be guilty of a ~~misdemeanor and shall be punished by imprisonment for not less than six months, and may be fined in the discretion of the court.~~ Class 2 misdemeanor. In prosecutions under this subsection and under subsection (b) above, proof of transportation of more than one gallon of spirituous liquor will be prima facie evidence of transportation for other than personal use, and proof of possession of more than one gallon of spirituous liquor will be prima facie evidence of possession for purpose of sale."

Sec. 229. G.S. 14-329(d) reads as rewritten:

"(d) Any person who, either individually or as agent for any person, firm or corporation, shall transport or possess, for use as a beverage, any illicit spirituous liquor which is found to contain any foreign properties or ingredients poisonous to the human system, shall be guilty of a ~~misdemeanor and shall be punished by a fine of not less than two hundred dollars ($200.00), and may be imprisoned in the discretion of the court;~~ Class 1 misdemeanor: Provided, anyone charged under this subsection may show as a complete defense that the spirituous liquor in question was legally obtained and possessed and that he had no knowledge of the poisonous nature of the beverage."

-----SELLING OR OFFERING TO SELL MEAT OF DISEASED ANIMALS

Sec. 230. G.S. 14-342 reads as rewritten:

"§ *14-342. Selling or offering to sell meat of diseased animals.*

If any person shall knowingly and willfully slaughter any diseased animal and sell or offer for sale any of the meat of such diseased animal for human consumption, or if any person knows that the meat offered for sale or sold for human consumption by him is that of a diseased animal, he shall be guilty of a ~~misdemeanor, and shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----UNAUTHORIZED DEALING IN RAILROAD TICKETS

Sec. 231. G.S. 14-343 reads as rewritten:

"§ *14-343. Unauthorized dealing in railroad tickets.*

If any person shall sell or deal in tickets issued by any railroad company, unless he is a duly authorized agent of the railroad company, or shall refuse upon demand to exhibit his authority to sell or deal in such tickets, he shall be guilty of a ~~misdemeanor punishable~~

~~by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----TICKETS SCALPING

Sec. 232. G.S. 14-344 reads as rewritten:

"§ *14-344. Sale of admission tickets in excess of printed price.*

Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----SALE OF CONVICT-MADE GOODS PROHIBITED

Sec. 233. G.S. 14-346(b) reads as rewritten:

"(b) Any person, firm or corporation selling, undertaking to sell, or offering for sale any prison-made or convict-made goods, wares or merchandise, anywhere within the State, in violation of the provisions of this section, shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor. Each sale or offer to sell, in violation of the provisions of this section, shall constitute a separate offense."

-----INFLUENCING AGENTS AND SERVANTS

Sec. 234. G.S. 14-353 reads as rewritten:

"§ *14-353. Influencing agents and servants in violating duties owed employers.*

Any person who gives, offers or promises to an agent, employee or servant any gift or gratuity whatever with intent to influence his action in relation to his principal's, employer's or master's business; any agent, employee or servant who requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner in relation to his principal's, employer's or

master's business; any agent, employee or servant who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master, or to employ service or labor for his principal, employer or master, receives, directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employee or servant such commission, discount or bonus, shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----BLACKLISTING EMPLOYEES

Sec. 235. G.S. 14-355 reads as rewritten:

"§ *14-355. Blacklisting employees.*

If any person, agent, company or corporation, after having discharged any employee from his or its service, shall prevent or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other person, company or corporation, such person, agent or corporation shall be guilty of a Class 3 misdemeanor and shall be punished by a fine not exceeding five hundred dollars ($500.00); and such person, agent, company or corporation shall be liable in penal damages to such discharged person, to be recovered by civil action. This section shall not be construed as prohibiting any person or agent of any company or corporation from furnishing in writing, upon request, any other person, company or corporation to whom such discharged person or employee has applied for employment, a truthful statement of the reason for such discharge."

-----CONSPIRING TO BLACKLIST EMPLOYEES

Sec. 236. G.S. 14-356 reads as rewritten:

"§ *14-356. Conspiring to blacklist employees.*

It shall be unlawful for two or more persons to agree together to blacklist any discharged employee or to attempt, by words or writing or any other means whatever, to prevent such discharged employee, or any employee who may have voluntarily left the service of his employer, from obtaining employment with any other person or company. Persons violating the provisions of this section shall be guilty of a ~~misdemeanor and shall be fined or imprisoned, or both, at the discretion of the court,~~ Class 1 misdemeanor."

-----VIOLATION OF CONTRACTS BETWEEN LANDLORD AND TENANT

Sec. 237. G.S. 14-358 reads as rewritten:

"§ 14-358. Local: Violation of certain contracts between landlord and tenant.

If any tenant or cropper shall procure advances from his landlord to enable him to make a crop on the land rented by him, and then willfully abandon the same without good cause and before paying for such advances with intent to defraud the landlord; or if any landlord shall contract with a tenant or cropper to furnish him advances to enable him to make a crop, and shall willfully fail or refuse, without good cause, to furnish such advances according to his agreement with intent to defraud the tenant, he shall be guilty of a ~~misdemeanor and shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor. Any person employing a tenant or cropper who has violated the provisions of this section, with knowledge of such violation, shall be liable to the landlord furnishing such advances for the amount thereof, and shall also be guilty of a ~~misdemeanor, and fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor. This section shall apply to the following counties only: Alamance, Alexander, Beaufort, Bertie, Bladen, Cabarrus, Camden, Caswell, Chowan, Cleveland, Columbus, Craven, Cumberland, Currituck, Duplin, Edgecombe, Gaston, Gates, Greene, Halifax, Harnett, Hertford, Johnston, Jones, Lee, Lenoir, Lincoln, Martin, Mecklenburg, Montgomery, Nash, Northampton, Onslow, Pamlico, Pender, Perquimans, Person, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Sampson, Stokes, Surry, Tyrrell, Vance, Wake, Warren, Washington, Wayne, Wilson and Yadkin."

-----TENANT NEGLECTING CROP; LANDLORD FAILING TO MAKE ADVANCES; HARBORING OR EMPLOYING DELINQUENT TENANT

Sec. 238. G.S. 14-359 reads as rewritten:

"§ 14-359. Local: Tenant neglecting crop; landlord failing to make advances; harboring or employing delinquent tenant.

If any tenant or cropper shall procure advances from his landlord to enable him to make a crop on the land rented by him, and then willfully refuse to cultivate such crops or negligently or willfully abandon the same without good cause and before paying for such advances with intent to defraud the landlord; or if any landlord who induces another to become tenant or cropper by agreeing to furnish him advances to enable him to make a crop, shall willfully fail or refuse without good cause to furnish such advances according to his agreement with intent to defraud the tenant, or if any person shall entice, persuade or procure any tenant, lessee or cropper, who has made a contract agreeing to cultivate the land of another, to abandon or to refuse or fail to cultivate such land with intent to defraud the

landlord, or after notice shall harbor or detain on his own premises, or on the premises of another, any such tenant, lessee or cropper, he shall be guilty of a ~~misdemeanor and shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor. Any person who employs a tenant or cropper who has violated the provisions of this section, with knowledge of such violation, shall be liable to the landlord furnishing such advances, for the amount thereof. This section shall apply only to the following counties: Alamance, Anson, Cabarrus, Caswell, Davidson, Franklin, Granville, Halifax, Harnett, Hertford, Hoke, Hyde, Lee, Lincoln, Moore, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Stanly, Stokes, Union, Vance, Wake and Washington."

-----CRUELTY TO ANIMALS; CONSTRUCTION OF SECTION

Sec. 239. G.S. 14-360 reads as rewritten:

"§ *14-360. Cruelty to animals; construction of section.*

If any person shall willfully overdrive, overload, wound, injure, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill or cause or procure to be overdriven, overloaded, wounded, injured, tortured, tormented, deprived of necessary sustenance, cruelly beaten, needlessly mutilated or killed as aforesaid, any useful beast, fowl or animal, every such offender shall for every such offense be guilty of a ~~misdemeanor punishable by a fine of up to one thousand five hundred dollars ($1,500) and imprisonment for up to one year.~~ Class 1 misdemeanor. In this section, and in every law which may be enacted relating to animals, the words 'animal' and 'dumb animal' shall be held to include every living creature; the words 'torture,' 'torment' or 'cruelty' shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. Such terms shall not be construed to prohibit the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission."

-----INSTIGATING OR PROMOTING CRUELTY TO ANIMALS

Sec. 240. G.S. 14-361 reads as rewritten:

"§ *14-361. Instigating or promoting cruelty to animals.*

If any person shall willfully set on foot, or instigate, or move to, carry on, or promote, or engage in, or do any act towards the furtherance of any act of cruelty to any animal, he shall be guilty of a ~~misdemeanor punishable by a fine of up to one thousand five hundred dollars ($1,500) and imprisonment for up to one year.~~ Class 1 misdemeanor."

-----ABANDONMENT OF ANIMALS

Sec. 241. G.S. 14-361.1 reads as rewritten:

"§ *14-361.1. Abandonment of animals.*

Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a ~~misdemeanor punishable by a fine of up to one thousand dollars ($1,000) and imprisonment for up to six months.~~ Class 2 misdemeanor."

-----COCK FIGHTING

Sec. 242. G.S. 14-362 reads as rewritten:

"§ *14-362. Cock fighting.*

A person who instigates, promotes, conducts, is employed at, allows property under his ownership or control to be used for, participates as a spectator at, or profits from an exhibition featuring the fighting of a cock is guilty of a ~~misdemeanor and is punishable by imprisonment for up to six months and a fine of up to five hundred dollars ($500.00).~~ Class 2 misdemeanor. A lease of property that is used or is intended to be used for an exhibition featuring the fighting of a cock is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately."

-----ANIMAL FIGHTS, OTHER THAN COCK FIGHTS, AND ANIMAL BAITING

Sec. 243. G.S. 14-362.1 reads as rewritten:

"§ *14-362.1. Animal fights, other than cock fights, and animal baiting.*

(a) A person who instigates, promotes, conducts, is employed at, provides an animal for, allows property under his ownership or control to be used for, or profits from an exhibition featuring the fighting or baiting of an animal, other than a cock, is guilty of a Class 2 misdemeanor. ~~misdemeanor and is punishable as provided in G.S. 14-3(a).~~ A lease of property that is used or is intended to be used for an exhibition featuring the fighting or baiting of an animal, other than a cock, is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains an animal, other than a cock, with the intent that the animal be used in an exhibition featuring the fighting or baiting of that animal or any other animal is guilty of a ~~misdemeanor and is punishable by imprisonment for up to one year and a fine of up to one thousand dollars ($1,000).~~ Class 2 misdemeanor.

(c) A person who participates as a spectator at an exhibition featuring the fighting or baiting of an animal, other than a cock, is guilty of a ~~misdemeanor and is punishable by imprisonment for up to six months and a fine of up to five hundred dollars ($500.00).~~ Class 2 misdemeanor.

(d) A person who commits an offense under subsection (a) within three years after being convicted of an offense under this section is guilty of a Class J felony.

(e) This section does not prohibit the lawful taking or training of animals under the jurisdiction and regulation of the Wildlife Resources Commission."

-----CONVEYING ANIMALS IN A CRUEL MANNER

Sec. 244. G.S. 14-363 reads as rewritten:

"§ *14-363. Conveying animals in a cruel manner.*

If any person shall carry or cause to be carried in or upon any vehicle or other conveyance, any animal in a cruel or inhuman manner, he shall be guilty of a ~~misdemeanor punishable by a fine of up to one thousand five hundred dollars ($1,500) and imprisonment for up to one year.~~ Class 1 misdemeanor. Whenever an offender shall be taken into custody therefor by any officer, the officer may take charge of such vehicle or other conveyance and its contents, and deposit the same in some safe place of custody. The necessary expenses which may be incurred for taking charge of and keeping and sustaining the vehicle or other conveyance shall be a lien thereon, to be paid before the same can be lawfully reclaimed; or the said expenses, or any part thereof remaining unpaid, may be recovered by the person incurring the same of the owner of such animal in an action therefor."

-----BABY ANIMALS; PETS AS NOVELTIES FORBIDDEN

Sec. 245. G.S. 14-363.1 reads as rewritten:

"§ *14-363.1. Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden.*

If any person, firm or corporation shall sell, or offer for sale, barter or give away as premiums living baby chicks, ducklings, or other fowl or rabbits under eight weeks of age as pets or novelties, such person, firm or corporation shall be guilty of a ~~misdemeanor punishable by a fine not to exceed two hundred dollars ($200.00) or imprisonment for not more than 30 days, or both.~~ Class 3 misdemeanor. Provided, that nothing contained in this section shall be construed to prohibit the sale of nondomesticated species of chicks, ducklings, or other fowl, or of other fowl from proper brooder facilities by hatcheries or stores engaged in the business of selling them for purposes other than for pets or novelties."

-----MOLESTING OR INJURING LIVESTOCK

Sec. 246. G.S. 14-366 reads as rewritten:

"§ *14-366. Molesting or injuring livestock.*

If any person shall unlawfully and on purpose drive any livestock, lawfully running at large in the range, from said range, or shall kill, maim or injure any livestock, lawfully running at large in the range or

in the field or pasture of the owner, whether done with actual intent to injure the owner, or to drive the stock from the range, or with any other unlawful intent, every such person, his counselors, aiders, and abettors, shall be guilty of a Class 2 misdemeanor: provided, that nothing herein contained shall prohibit any person from driving out of the range any stock unlawfully brought from other states or places. In any indictment under this section it shall not be necessary to name in the bill or prove on the trial the owner of the stock molested, maimed, killed or injured. Any person violating any provision of this section shall be ~~punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both,~~ guilty of a Class 2 misdemeanor."

-----PLACING POISONOUS SHRUBS AND VEGETABLES IN PUBLIC PLACES

Sec. 247. G.S. 14-368 reads as rewritten:

"*§ 14-368. Placing poisonous shrubs and vegetables in public places.*

If any person shall throw into or leave exposed in any public square, street, lane, alley or open lot in any city, town or village, or in any public road, any mock orange or other poisonous shrub, plant, tree or vegetable, he shall be liable in damages to any person injured thereby and shall also be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----OBTAINING/DIVULGING KNOWLEDGE OF TELEPHONIC MESSAGES

Sec. 248. G.S. 14-370 reads as rewritten:

"*§ 14-370. Wrongfully obtaining or divulging knowledge of telephonic messages.*

If any person wrongfully obtains, or attempts to obtain, any knowledge of a telephonic message by connivance with a clerk, operator, messenger or other employee of a telephone company, or, being such clerk, operator, messenger or employee, willfully divulges to any but the person for whom it was intended, the contents of a telephonic message or dispatch intrusted to him for transmission or delivery, or the nature thereof, he shall be guilty of a ~~misdemeanor, and shall be fined or imprisoned, or both, in the discretion of the court,~~ Class 2 misdemeanor."

-----VIOLATING PRIVACY OF TELEGRAPHIC MESSAGES

Sec. 249. G.S. 14-371 reads as rewritten:

"*§ 14-371. Violating privacy of telegraphic messages; failure to transmit and deliver same promptly.*

If any person wrongfully obtains, or attempts to obtain, any knowledge of a telegraphic message by connivance with a clerk, operator, messenger, or other employee of a telegraph company, or,

being such clerk, operator, messenger, or other employee, willfully divulges to any but the person for whom it was intended, the contents of a telegraphic message or dispatch intrusted to him for transmission or delivery, or the nature thereof, or willfully refuse or neglect duly to transmit or deliver the same, he shall be guilty of a Class 2 misdemeanor."

-----UNAUTHORIZED OPENING OF LETTERS AND TELEGRAMS

Sec. 250. G.S. 14-372 reads as rewritten:

"*§ 14-372. Unauthorized opening, reading or publishing of sealed letters and telegrams.*

If any person shall willfully, and without authority, open or read, or cause to be opened or read, a sealed letter or telegram, or shall publish the whole or any portion of such letter or telegram, knowing it to have been opened or read without authority, he shall be guilty of a Class 2 misdemeanor."

-----BRIBERY OF HORSE SHOW JUDGES OR OFFICIALS

Sec. 251. G.S. 14-380.1 reads as rewritten:

"*§ 14-380.1. Bribery of horse show judges or officials.*

Any person who bribes, or offers to bribe, any judge or other official in any horse show, with intent to influence his decision or judgment concerning said horse show, shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----BRIBERY ATTEMPTS TO BE REPORTED

Sec. 252. G.S. 14-380.2 reads as rewritten:

"*§ 14-380.2. Bribery attempts to be reported.*

Any judge or other official of any horse show shall report to the resident superior court district attorney any attempt to bribe him with respect to his decisions in any horse show, and a failure to so report shall constitute a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----DESECRATION OF STATE AND UNITED STATES FLAG

Sec. 253. G.S. 14-381 reads as rewritten:

"*§ 14-381. Desecration of State and United States flag.*

It shall be unlawful for any person willfully and knowingly to cast contempt upon any flag of the United States or upon any flag of North Carolina by public acts of physical contact including, but not limited to, mutilation, defiling, defacing or trampling. Any person violating this section shall be deemed guilty of a ~~misdemeanor and shall be punished by a fine not exceeding five hundred dollars ($500.00) or~~

~~imprisonment for not more than six months or both, in the discretion of the court.~~ Class 2 misdemeanor.

The flag of the United States, as used in this section, shall be the same as defined in 4 U.S.C.A. 1 and 4 U.S.C.A. 2. The flag of North Carolina, as used in this section, shall be the same as defined in G.S. 144-1."

-----POLLUTION OF WATER ON LANDS USED FOR DAIRY PURPOSES

Sec. 254. G.S. 14-382 reads as rewritten:

"*§ 14-382. Pollution of water on lands used for dairy purposes.*

It shall be unlawful for any person, firm, or corporation owning lands adjoining the lands of any person, firm, or corporation which are or may be used for dairy purposes or for grazing milk cows, to dispose of or permit disposal of any animal, mineral, chemical, or vegetable refuse, sewage or other deleterious matter in such way as to pollute the water on the lands so used or which may be used for dairy purposes or for grazing milk cows, or to render unfit or unsafe for use the milk produced from cows feeding upon the grasses and herbage growing on such lands. This section shall not apply to incorporated towns maintaining a sewer system. Anyone violating the provisions of this section shall be guilty of a ~~misdemeanor and fined not more than fifty dollars ($50.00) or imprisoned for not more than 30 days, or both,~~ Class 3 misdemeanor, and each day that such pollution is committed or exists shall constitute a separate offense."

-----CUTTING TIMBER ON TOWN WATERSHED

Sec. 255. G.S. 14-383 reads as rewritten:

"*§ 14-383. Cutting timber on town watershed without disposing of boughs and debris; misdemeanor.*

Any person, firm or corporation owning lands or the standing timber on lands within 400 feet of any watershed held or owned by any city or town, for the purpose of furnishing a city or town water supply, upon cutting or removing the timber or permitting the same cut or removed from lands so within 400 feet of said watershed, or any part thereof, shall, within three months after cutting, or earlier upon written notice by said city or town, remove or cause to be burned under proper supervision all treetops, boughs, laps and other portions of timber not desired to be taken for commercial or other purposes, within 400 feet of the boundary line of such part of such watershed as is held or owned by such town or city, so as to leave such space of 400 feet immediately adjoining the boundary line of such watershed, so held or owned, free and clear of all such treetops, laps, boughs and other inflammable material caused by or left from cutting such standing timber, so as to prevent the spread of fire from such cutover area and the consequent damage to such watershed. Any

such person, firm or corporation violating the provisions of this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----INJURING NOTICES AND ADVERTISEMENTS

Sec. 256. G.S. 14-384 reads as rewritten:

"§ *14-384. Injuring notices and advertisements.*

If any person shall wantonly or maliciously mutilate, deface, pull or tear down, destroy or otherwise damage any notice, sign or advertisement, unless immoral or obscene, whether put up by an officer of the law in performance of the duties of his office or by some other person for a lawful purpose, before the object for which such notice, sign or advertisement was posted shall have been accomplished, he shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined not exceeding twenty-five dollars ($25.00) or imprisoned not exceeding 30 days at the discretion of the court.~~ Class 3 misdemeanor. Nothing herein contained shall apply to any person mutilating, defacing, pulling or tearing down, destroying or otherwise damaging notices, signs or advertisements put upon his own land or lands of which he may have charge or control, unless consent of such person to put up such notice, sign or advertisement shall have first been obtained, except those put up by an officer of the law in the performance of the duties of his office."

-----DEFACING OR DESTROYING PUBLIC NOTICES AND ADVERTISEMENTS

Sec. 257. G.S. 14-385 reads as rewritten:

"§ *14-385. Defacing or destroying public notices and advertisements.*

If any person shall willfully and unlawfully deface, tear down, remove or destroy any legal notice or advertisement authorized by law to be posted by any officer or other person, the same being actually posted at the time of such defacement, tearing down, removal or destruction, during the time for which such legal notice or advertisement shall be authorized by law to be posted, he shall be guilty of a ~~misdemeanor, and shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor."

-----SALE OF JAMAICA GINGER

Sec. 258. G.S. 14-389 reads as rewritten:

"§ *14-389. Sale of Jamaica ginger.*

It shall be unlawful for any person, firm, or corporation to sell the compound known as Jamaica ginger except upon the prescription of a duly licensed and regularly practicing physician; the person, firm, or corporation selling Jamaica ginger upon prescription shall keep a list of said prescriptions, and shall allow said list to be examined by any

officer of the law, and no prescription shall ever be filled but once; it shall be unlawful for any physician to give a prescription for Jamaica ginger except to a person directly under his care, and then only in good faith for medicinal purposes only. Any person violating any provision of this section shall be ~~punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment not for more than six months, or both.~~ guilty of a Class 2 misdemeanor."

-----USURIOUS LOANS ON HOUSEHOLD PROPERTY/ASSIGNMENT OF WAGES

Sec. 259. G.S. 14-391 reads as rewritten:

"*§ 14-391. Usurious loans on household and kitchen furniture or assignment of wages.*

Any person, firm or corporation who shall lend money in any manner whatsoever by note, chattel mortgage, conditional sale, or purported conditional sale or otherwise, upon any article of household or kitchen furniture, or any assignment of wages, earned or to be earned, and shall willfully:

(1) Take, receive, reserve or charge a greater rate of interest than permitted by law, either before or after the interest may accrue; or

(2) Refuse to give receipts for payments on interest or principal of such loan; or

(3) Fail or refuse to surrender the note and security when the same is paid off or a new note and mortgage is given in renewal, unless such new mortgage shall state the amount still due by the old note or mortgage and that the new one is given as additional security;

shall be guilty of a Class 1 misdemeanor and in addition thereto shall be subject to the provisions of G.S. 24-2."

-----ANONYMOUS OR THREATENING LETTERS, MAILING OR TRANSMITTING

Sec. 260. G.S. 14-394 reads as rewritten:

"*§ 14-394. Anonymous or threatening letters, mailing or transmitting.*

It shall be unlawful for any person, firm, or corporation, or any association of persons in this State, under whatever name styled, to write and transmit any letter, note, or writing, whether written, printed, or drawn, without signing his, her, their, or its true name thereto, threatening any person or persons, firm or corporation, or officers thereof with any personal injury or violence or destruction of property of such individuals, firms, or corporations, or using therein any language or threats of any kind or nature calculated to intimidate or place in fear any such persons, firms or corporations, or officers thereof, as to their personal safety or the safety of their property, or using vulgar or obscene language, or using such language which if

published would bring such persons into public contempt and disgrace, and any person, firm, or corporation violating the provisions of this section shall be ~~fined or imprisoned, or both, in the discretion of the court,~~ guilty of a Class 1 misdemeanor."

-----AMERICAN LEGION EMBLEM; WEARING BY NONMEMBERS

Sec. 261. G.S. 14-395 reads as rewritten:

"*§ 14-395. Commercialization of American Legion emblem; wearing by nonmembers.*

It shall be unlawful for anyone not a member of the American Legion, an organization consisting of ex-members of the army, navy and marine corps, who served as members of such organizations in the recent world war, to wear upon his or her person the recognized emblem of the American Legion, or to use the said emblem for advertising purposes, or to commercialize the same in any way whatsoever; or to use the said emblem in display upon his or her property or place of business, or at any place whatsoever. Anyone violating the provisions of this section shall be guilty of a ~~misdemeanor and fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----SEXUAL HARASSMENT

Sec. 262. G.S. 14-395.1(a) reads as rewritten:

"(a) Offense. -- Any lessor of residential real property or the agent of any lessor of residential real property who shall harass on the basis of sex any lessee or prospective lessee of the property shall be guilty of a ~~misdemeanor punishable by a term of imprisonment not to exceed six months, a fine not to exceed two hundred dollars ($200.00), or both.~~ Class 2 misdemeanor."

-----DOGS ON "CAPITOL SQUARE" WORRYING SQUIRRELS

Sec. 263. G.S. 14-396 reads as rewritten:

"*§ 14-396. Dogs on 'Capitol Square' worrying squirrels.*

It shall be unlawful for any owner or keeper of a dog to permit the same to run at large on the Capitol grounds known as 'Capitol Square' or to be thereon unless on leash or otherwise in the immediate physical control of said owner or keeper, or to pursue, worry or harass any squirrel or other wild animal kept on said grounds. Any person violating the provisions of this section shall be guilty of a ~~misdemeanor punishable by fine not exceeding fifty dollars ($50.00) or imprisonment not exceeding 30 days.~~ Class 3 misdemeanor."

-----USE OF NAME OF DENOMINATIONAL COLLEGE ON DANCE HALL

Sec. 264. G.S. 14-397 reads as rewritten:

"*§ 14-397. Use of name of denominational college in connection with dance hall.*

It shall be unlawful for any person, firm, corporation, club or society, by whatsoever name called, to use in connection with any dance, or dance hall, by advertisement, announcement, or otherwise, the name of any college, or any class or organization of any college operated and conducted by a religious denomination, unless the written permission of the dean of such college is given, permitting and allowing the use of the name of such denominational college, or a class or organization of the same in connection with such dance, or dance hall. Any person violating any of the provisions of this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----THEFT OR DESTRUCTION OF PROPERTY OF PUBLIC LIBRARIES

Sec. 265. G.S. 14-398 reads as rewritten:

"*§ 14-398. Theft or destruction of property of public libraries, museums, etc.*

Any person who shall steal or unlawfully take or detain, or willfully or maliciously or wantonly write upon, cut, tear, deface, disfigure, soil, obliterate, break or destroy, or who shall sell or buy or receive, knowing the same to have been stolen, any book, document, newspaper, periodical, map, chart, picture, portrait, engraving, statue, coin, medal, apparatus, specimen, or other work of literature or object of art or curiosity deposited in a public library, gallery, museum, collection, fair or exhibition, or in any department or office of State or local government, or in a library, gallery, museum, collection, or exhibition, belonging to any incorporated college or university, or any incorporated institution devoted to educational, scientific, literary, artistic, historical or charitable purposes, shall, if the value of the property stolen, detained, sold, bought or received knowing same to have been stolen, or if the damage done by writing upon, cutting, tearing, defacing, disfiguring, soiling, obliterating, breaking or destroying any such property, shall not exceed fifty dollars ($50.00), be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor. If the value of the property stolen, detained, sold or received knowing same to have been stolen, or the amount of damage done in any of the ways or manners hereinabove set out, shall exceed the sum of fifty dollars ($50.00), the person committing same shall be punished as a Class H felon."

-----LITTERING

Sec. 266. G.S. 14-399(c) reads as rewritten:

"(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a

Class 3 misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for the first offense. Any second or subsequent offense is punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000). In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed."

Sec. 267. G.S. 14-399(d) reads as rewritten:

"(d) Any person who violates this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000). In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed."

-----PLASTIC YOKE AND RING TYPE DEVICES PROHIBITED

Sec. 268. G.S. 14-399.2(c) reads as rewritten:

"(c) Any person who sells or distributes for sale a yoke or ring type holding device in violation of this section shall be guilty of a Class 3 misdemeanor punishable by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00). In lieu of a fine or any portion thereof or in addition to a fine, any violation of this section may also be punished by a term of community service."

-----TATTOOING PROHIBITED

Sec. 269. G.S. 14-400 reads as rewritten:

"*§ 14-400. Tattooing prohibited.*

It shall be unlawful for any person or persons to tattoo the arm, limb, or any part of the body of any other person under 18 years of age. Anyone violating the provisions of this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----PUTTING POISONOUS FOOD IN PUBLIC PLACES

Sec. 270. G.S. 14-401 reads as rewritten:

"*§ 14-401. Putting poisonous foodstuffs, etc., in certain public places, prohibited.*

It shall be unlawful for any person, firm or corporation to put or place any strychnine, other poisonous compounds or ground glass on any beef or other foodstuffs of any kind in any public square, street, lane, alley or on any lot in any village, town or city or on any public road, open field, woods or yard in the country. Any person, firm or corporation who violates the provisions of this section shall be liable in damages to the person injured thereby and also shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned, at~~

~~the discretion of the court.~~ Class 1 misdemeanor. This section shall not apply to the poisoning of insects or worms for the purpose of protecting crops or gardens by spraying plants, crops or trees nor to poisons used in rat extermination."

-----MISDEMEANOR TO TAMPER WITH EXAMINATION QUESTIONS

Sec. 271. G.S. 14-401.1 reads as rewritten:

"§ *14-401.1. Misdemeanor to tamper with examination questions.*

Any person who, without authority of the entity who prepares or administers the examination, purloins, steals, buys, receives, or sells, gives or offers to buy, give, or sell any examination questions or copies thereof of any examination provided and prepared by law shall be guilty of a Class 2 misdemeanor."

-----MISDEMEANOR FOR DETECTIVE TO COLLECT CLAIMS

Sec. 272. G.S. 14-401.2 reads as rewritten:

"§ *14-401.2. Misdemeanor for detective to collect claims, accounts, etc.*

It shall be unlawful for any person, firm, or corporation, who or which is engaged in business as a detective, detective agency, or what is ordinarily known as "secret service work," or conducts such business, to engage in the business of collecting claims, accounts, bills, notes, or other money obligations for others, or to engage in the business known as a collection agency. Violation of the provisions hereof shall be a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----GRAVESTONE CHARGING COMMISSION OF CRIME

Sec. 273. G.S. 14-401.3 reads as rewritten:

"§ *14-401.3. Inscription on gravestone or monument charging commission of crime.*

It shall be illegal for any person to erect or cause to be erected any gravestone or monument bearing any inscription charging any person with the commission of a crime, and it shall be illegal for any person owning, controlling or operating any cemetery to permit such gravestone to be erected and maintained therein. If such gravestone has been erected in any graveyard, cemetery or burial plot, it shall be the duty of the person having charge thereof to remove and obliterate such inscription. Any person violating the provisions of this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----IDENTIFYING MARKS ON MACHINES AND APPARATUS

Sec. 274. G.S. 14-401.4(d) reads as rewritten:

"(d) Any person, firm or corporation who shall violate any part of this section shall be guilty of a ~~misdemeanor and upon plea of guilty~~

~~or conviction shall be punished in the discretion of the court.~~ Class 1 misdemeanor. "

-----FORTUNE-TELLING PROHIBITED

Sec. 275. G.S. 14-401.5 reads as rewritten:

"*§ 14-401.5. Practice of phrenology, palmistry, fortune-telling or clairvoyance prohibited.*

It shall be unlawful for any person to practice the arts of phrenology, palmistry, clairvoyance, fortune-telling and other crafts of a similar kind in the counties named herein. Any person violating any provision of this section shall be guilty of a ~~misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than six months or both such fine and imprisonment in the discretion of the court.~~ Class 2 misdemeanor.

This section shall not prohibit the amateur practice of phrenology, palmistry, fortune-telling or clairvoyance in connection with school or church socials, provided such socials are held in school or church buildings.

Provided that the provisions of this section shall apply only to the Counties of Alexander, Ashe, Avery, Bertie, Bladen, Brunswick, Buncombe, Burke, Caldwell, Camden, Carteret, Caswell, Chatham, Chowan, Clay, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Franklin, Gates, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Iredell, Johnston, Lee, Lenoir, Madison, Martin, McDowell, Mecklenburg, Moore, Nash, New Hanover, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Polk, Richmond, Robeson, Rockingham, Rutherford, Sampson, Scotland, Surry, Transylvania, Union, Vance, Wake and Warren."

-----UNLAWFUL TO POSSESS TEAR GAS EXCEPT FOR CERTAIN PURPOSES

Sec. 276. G.S. 14-401.6(b) reads as rewritten:

"(b) Violation of this section is a ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----SECURITIES ON COMMISSION TAXED AS A PRIVATE BANKER

Sec. 277. G.S. 14-401.7 reads as rewritten:

"*§ 14-401.7. Persons, firms, banks and corporations dealing in securities on commission taxed as a private banker.*

No person, bank, or corporation, without a license authorized by law, shall act as a stockbroker or private banker. Any person, bank, or corporation that deals in foreign or domestic exchange certificates of debt, shares in any corporation or charter companies, bank or other

notes, for the purpose of selling the same or any other thing for commission or other compensation, or who negotiates loans upon real estate securities, shall be deemed a security broker. Any person, bank, or corporation engaged in the business of negotiating loans on any class of security or in discounting, buying or selling negotiable or other papers or credits, whether in an office for the purpose or elsewhere shall be deemed to be a private banker. Any person, firm, or corporation violating this section shall be guilty of a Class 3 misdemeanor and pay a fine of not less than one hundred ($100.00) nor more than five hundred dollars ($500.00) for each offense."

-----PARTY TELEPHONE LINE IN EMERGENCY

Sec. 278. G.S. 14-401.8 reads as rewritten:

"§ *14-401.8. Refusing to relinquish party telephone line in emergency; false statement of emergency.*

Any person who shall willfully refuse to immediately relinquish a party telephone line when informed that such line is needed for an emergency call to a fire department or police department, or for medical aid or ambulance service, or any person who shall secure the use of a party telephone line by falsely stating that such line is needed for an emergency call, shall be guilty of a ~~misdemeanor, and, upon conviction shall be fined or imprisoned in the discretion of the court.~~Class 1 misdemeanor.

The term 'party line' as used in this section is defined as a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number. The term 'emergency' as used in this section is defined as a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential."

-----PARKING VEHICLE IN PRIVATE PARKING SPACE WITHOUT PERMISSION

Sec. 279. G.S. 14-401.9 reads as rewritten:

"§ *14-401.9. Parking vehicle in private parking space without permission.*

It shall be unlawful for any person other than the owner or lessee of a privately owned or leased parking space to park a motor or other vehicle in such private parking space without the express permission of the owner or lessee of such space; provided, that such private parking lot be clearly designated as such by a sign no smaller than 24 inches by 24 inches prominently displayed at the entrance thereto, and provided further, that the parking spaces within the lot be clearly marked by signs setting forth the name of each individual lessee or owner.

Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor and upon conviction shall be fined not more than ten dollars ($10.00) in the discretion of the court."

-----SOLICITING ADS FOR PUBLICATIONS OF LAW-ENFORCEMENT ASSOCIATIONS

Sec. 280. G.S. 14-401.10 reads as rewritten:

"§ *14-401.10. Soliciting advertisements for official publications of law-enforcement officers' associations.*

Every person, firm or corporation who solicits any advertisement to be published in any law-enforcement officers' association's official magazine, yearbook, or other official publication, shall disclose to the person so solicited, whether so requested or not, the name of the law-enforcement association for which such advertisement is solicited, together with written authority from the president or secretary of such association to solicit such advertising on its behalf.

Any person, firm or corporation violating the provisions of this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----SOLICITING CHARITABLE CONTRIBUTIONS BY TELEPHONE

Sec. 281. G.S. 14-401.12(a) reads as rewritten:

"(a) Any professional solicitor who solicits by telephone contributions for charitable purposes or in any way compensates another person to solicit by telephone contributions for charitable purposes shall be guilty of a Class 1 misdemeanor. Any person compensated by a professional solicitor to solicit by telephone contributions for charitable purposes shall be guilty of a Class 1 misdemeanor."

-----FAILURE TO GIVE RIGHT TO CANCEL IN OFF-PREMISES SALES

Sec. 282. G.S. 14-401.13 reads as rewritten:

"§ *14-401.13 Failure to give right to cancel in off-premises sales.*

(a) It shall be a ~~misdemeanor, punishable by 30 days imprisonment and a one hundred dollar ($100.00) fine~~ Class 3 misdemeanor for any sellers, as defined hereinafter, in connection with an off-premises sale, as defined hereinafter, willfully to:

(1) Fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g, Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer

or on the front page of the receipt if a contract is not used and in boldface type of a minimum size of 10 points, a statement in substantially the following form: 'You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.'

(2) Fail to furnish each buyer, at the time he signs the off-premises sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned 'NOTICE OF CANCELLATION', which shall be attached to the contract or receipt and easily detachable, and which shall contain in boldface type in a minimum size of 10 points, the following information and statements in the same language, e.g., Spanish, as that used in the contract:

'NOTICE OF CANCELLATION

(enter date of transaction)

(date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk. In the event you purchased antiques at an antique show and cancel, and your residence is out-of-state, you must deliver the purchased goods to the seller.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram, to

name of seller)
at
(address of seller's place of business)
not later than midnight of
(date)
I hereby cancel this transaction.

(date)

(buyer's signature)

(3) Fail, before furnishing copies of the 'Notice of Cancellation' to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

(4) Fail to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

(5) Misrepresent in any manner the buyer's right to cancel.

(b) Regardless of the seller's compliance or noncompliance with the requirements of the preceding subsection, it shall be a Class 3 misdemeanor for any seller, as defined hereinafter, to willfully fail or refuse to honor any valid notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction. If the seller failed to provide a form Notice of Cancellation to the buyer, then oral notice of cancellation by the buyer is sufficient for purposes of this subsection.

(c) For the purposes of this section, the following definitions shall apply:

(1) Off-Premises Sale. -- A sale, lease, or rental of consumer goods or services with a purchase price of twenty-five dollars ($25.00) or more, whether under single or multiple contracts, in which the seller or his representative personally

solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller. The term 'off-premises sale' does not include a transaction:

a. Made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis; or
b. In which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act (15 U.S.C. 1635) or regulations issued pursuant thereto; or
c. In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three business days; or
d. Conducted and consummated entirely by mail or telephone; and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services; or
e. In which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion; or
f. Pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker-dealer registered with the Securities and Exchange Commission; or
g. Executed at an auction.

(2) Consumer Goods or Services. -- Goods or services purchased, leased, or rented primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken.

(3) Seller. -- Any person, partnership, corporation, or association engaged in the off-premises sale of consumer goods or services. However, a nonprofit corporation or association, or member or employee thereof acting on behalf of such an association or corporation, shall not be a seller within the meaning of this section.

(4) Place of Business. -- The main or permanent branch office or local address of a seller.

(5) Purchase Price. -- The total price paid or to be paid for the consumer goods or services, including all interest and service charges.

(6) Business Day. -- Any calendar day except Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and Easter Monday."

-----ETHNIC INTIMIDATION

Sec. 283. G.S. 14-401.14 reads as rewritten:

"§ *14-401.14. Ethnic intimidation.*

If a person shall, because of race, color, religion, nationality, or country of origin, assault another person, or damage or deface the property of another person, or threaten to do any such act, he shall be guilty of a ~~misdemeanor punishable by imprisonment up to two years, or a fine, or both.~~ Class 1 misdemeanor."

-----SALE OF CERTAIN WEAPONS WITHOUT PERMIT FORBIDDEN

Sec. 284. G.S. 14-402 reads as rewritten:

"§ *14-402. Sale of certain weapons without permit forbidden.*

It shall be unlawful for any person, firm, or corporation in this State to sell, give away, or transfer, or to purchase or receive, at any place within this State from any other place within or without the State any pistol unless a license or permit therefor has first been obtained by the purchaser or receiver from the sheriff of the county in which that purchaser or receiver resides.

It shall be unlawful for any person or persons to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, railroad agent or employee within the State of North Carolina any pistol without having in his or their possession and without exhibiting at the time of the delivery of the same and to the person delivering the same the permit from the sheriff as provided in G.S. 14-403. Any person violating the provisions of this section shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), or imprisoned not less~~

~~than 30 days nor more than six months, or both, in the discretion of the court.~~ Class 2 misdemeanor.

'Antique firearm' as defined by G.S. 14-409.11, and 'historic edged weapon' as defined by G.S. 14-409.12, are hereby excepted from the provisions of this section."

-----WEAPONS DEALERS RECORD OF SALE

Sec. 285. G.S. 14-408 reads as rewritten:

"*§ 14-408. Violation of § 14-406 or 14-407 a misdemeanor.*

Any person, firm, or corporation violating any of the provisions of G.S. 14-406 or 14-407 shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~Class 2 misdemeanor."

-----SALE OF CERTAIN WEAPONS WITHOUT PERMIT FORBIDDEN

Sec. 286. G.S. 14-409.1 reads as rewritten:

"*§ 14-409.1. Sale of certain weapons without permit forbidden.*

It shall be unlawful for any person, firm, or corporation in this State to sell, give away, or transfer, or to purchase or receive, at any place within this State from any other place within or without the State any pistol unless a license or permit therefor has first been obtained by the purchaser or receiver from the clerk of the superior court of the county in which that purchaser or receiver resides.

It shall be unlawful for any person or persons to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, railroad agent or employee within the State of North Carolina any pistol without having in his or their possession and without exhibiting at the time of the delivery of the same and to the person delivering the same, the permit from the clerk of superior court as provided in G.S. 14-409.2. Any person violating the provisions of this section shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), or imprisoned not less than 30 days nor more than six months, or both, in the discretion of the court.~~ Class 2 misdemeanor.

'Antique firearm' as defined by G.S. 14-409.11, and 'historic edged weapon' as defined by G.S. 14-409.12, are hereby excepted from the provisions of this section."

-----DEALERS OF PISTOLS

Sec. 287. G.S. 14-409.8 reads as rewritten:

"*§ 14-409.8. Violation of § 14-409.5 or 14-409.6 a misdemeanor.*

Any person, firm, or corporation violating any of the provisions of G.S. 14-409.5 or 14-409.6 shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00),~~

~~imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----SALE OF PYROTECHNICS

Sec. 288. G.S. 14-415 reads as rewritten:

"§ *14-415. Violation made misdemeanor.*

Any person violating any of the provisions of this Article, except as otherwise specified in said Article, shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----HANDLING OF POISONOUS REPTILES

Sec. 289. G.S. 14-422 reads as rewritten:

"§ *14-422. Violation made misdemeanor.*

Any person violating any of the provisions of this Article shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----ENGAGING, ETC., IN BUSINESS OF DEBT ADJUSTING A MISDEMEANOR

Sec. 290. G.S. 14-424 reads as rewritten:

"§ *14-424. Engaging, etc., in business of debt adjusting a misdemeanor.*

If any person shall engage in, or offer to or attempt to, engage in the business or practice of debt adjusting, or if any person shall hereafter act, offer to act, or attempt to act as a debt adjuster, he shall be guilty of a Class 2 misdemeanor. ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~"

-----RECORDS, TAPES AND OTHER RECORDED DEVICES

Sec. 291. G.S. 14-437 reads as rewritten:

"§ *14-437. Violation of Article; penalties.*

(a) Every individual act in contravention of the provisions of this Article shall constitute:

(1) A Class I felony, punishable by imprisonment for not more than five years, a fine of not more than one hundred fifty thousand dollars ($150,000), or both, if the offense involves at least 1,000 unauthorized sound recordings or at least 100 unauthorized audio visual recordings during any 180-day period or is a second or subsequent conviction under either subdivision (1) or (2) of this section;

(2) A ~~misdemeanor, punishable by imprisonment of not more than two years, a fine of not more than twenty-five thousand dollars ($25,000), or both,~~ Class 1 misdemeanor, if the offense involves more than 100 but less than 1,000 unauthorized sound recordings or more than 10 but less

than 100 unauthorized audio visual recordings during any 180-day period; or

(3) A ~~misdemeanor, punishable by not more than six months in jail, a fine of not more than one thousand dollars ($1,000), or both,~~ Class 2 misdemeanor, for any other violation of these sections.

(b) If a person is convicted of any violation under this Article, the court, in its judgment of conviction, shall order the forfeiture and destruction or other disposition of:

(1) All infringing articles; and

(2) All implements, devices and equipment used or intended to be used in the manufacture of the infringing articles."

-----INTOXICATED AND DISRUPTIVE IN PUBLIC

Sec. 292. G.S. 14-444(b) reads as rewritten:

"(b) Any person who violates this section shall be guilty of a Class 3 misdemeanor. ~~misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days.~~ Notwithstanding the provisions of G.S. 7A-273(1), a magistrate is not empowered to accept a guilty plea and enter judgment for this offense."

-----ACCESSING COMPUTERS

Sec. 293. G.S. 14-454(b) reads as rewritten:

"(b) Any person who willfully and without authorization, directly or indirectly, accesses or causes to be accessed any computer, computer system, computer network, or any part thereof, for any purpose other than those set forth in subsection (a) above, is guilty of a Class 1 misdemeanor."

-----DAMAGING COMPUTERS AND RELATED MATERIALS

Sec. 294. G.S. 14-455(b) reads as rewritten:

"(b) A person is guilty of a Class 1 misdemeanor if he willfully and without authorization alters, damages, or destroys any computer software, program or data residing or existing internal or external to a computer, computer system or computer network."

-----DENIAL OF COMPUTER SERVICES TO AN AUTHORIZED USER

Sec. 295. G.S. 14-456 reads as rewritten:

"*§ 14-456. Denial of computer services to an authorized user.*

Any person who willfully and without authorization denies or causes the denial of computer system services to an authorized user of such computer system services, is guilty of a Class 1 misdemeanor."

-----PRISONER NOT TO BE TRIED IN PRISON UNIFORM

Sec. 296. G.S. 15-176 reads as rewritten:

"*§ 15-176. Prisoner not to be tried in prison uniform.*

It shall be unlawful for any sheriff, jailer or other officer to require any person imprisoned in jail to appear in any court for trial dressed in the uniform or dress of a prisoner or convict, or in any uniform or apparel other than ordinary civilian's dress, or with shaven or clipped head. And no person charged with a criminal offense shall be tried in any court while dressed in the uniform or dress of a prisoner or convict, or in any uniform or apparel other than ordinary civilian's dress, or with head shaven or clipped by or under the direction and requirement of any sheriff, jailer or other officer, unless the head was shaven or clipped while such person was serving a term of imprisonment for the commission of a crime.

Any sheriff, jailer or other officer who violates the provisions of this section shall be guilty of a Class 1 misdemeanor."

-----PEN REGISTERS; TRAP AND TRACE DEVICES

Sec. 297. G.S. 15A-261(c) reads as rewritten:

"(c) Penalty. -- A person who willfully and knowingly violates subsection (a) of this section is guilty of a ~~misdemeanor punishable by a fine, imprisonment of not more than one year, or both.~~ Class 1 misdemeanor."

-----PHOTOGRAPHS AND FINGERPRINTS

Sec. 298. G.S. 15A-502(b) reads as rewritten:

"(b) This section does not authorize the taking of photographs or fingerprints when the offense charged is a Class 2 or 3 misdemeanor under Chapter 20 of the General Statutes, ~~"Motor Vehicles," for which the penalty authorized does not exceed a fine of five hundred dollars ($500.00), imprisonment for six months, or both.~~ 'Motor Vehicles.'"

-----PERSONS PROHIBITED FROM BECOMING SURETY

Sec. 299. G.S. 15A-541(b) reads as rewritten:

"(b) A violation of this section is a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----FALSE QUALIFICATION BY SURETY

Sec. 300. G.S. 15A-542(b) reads as rewritten:

"(b) A violation of this section is a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

------PENALTIES FOR FAILURE TO APPEAR

Sec. 301. G.S. 15A-543(c) reads as rewritten:

"(c) If, except as provided in subsection (b) above, a violator was released in connection with a misdemeanor charge against him, a violation of this section is a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment not to exceed six months, or both.~~ Class 2 misdemeanor."

-----RIGHTS OF AN ACCUSED PERSON

Sec. 302. G.S. 15A-731 reads as rewritten:

"*§ 15A-731. Penalty for noncompliance with § 15A-730.*

Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the Governor's warrant, in willful disobedience to G.S. 15A-730, shall be guilty of a ~~misdemeanor and, on conviction, shall be fined not more than one thousand dollars ($1,000) or be imprisoned not more than six months, or both.~~ Class 2 misdemeanor."

-----FILING OF APPLICATION FOR COMPENSATION AWARD; CONTENTS

Sec. 303. G.S. 15B-7(b) reads as rewritten:

"(b) A person who knowingly and willfully presents or attempts to present a false or fraudulent application, or a State officer or employee who knowingly and willfully participates or assists in the preparation or presentation of a false or fraudulent application is guilty of a Class 1 misdemeanor if the application is for a claim of not more than four hundred dollars ($400.00). If the application is for a claim of more than four hundred dollars ($400.00), the person is guilty of a Class I felony."

-----ENTERING INTO OR AIDING CONTRACT FOR "FUTURES" MISDEMEANOR

Sec. 304. G.S. 16-4 reads as rewritten:

"*§ 16-4. Entering into or aiding contract for 'futures' misdemeanor.*

If any person shall become a party to any contract declared void in this Article; or if any person shall be the agent, directly or indirectly, of any party in making or furthering or effectuating the same; or if any agent or officer of a corporation shall in any manner knowingly aid in making or furthering any such contract to which the corporation is a party, he shall be guilty of a ~~misdemeanor, and on conviction shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), and may be imprisoned in the discretion of the court,~~ Class 1 misdemeanor.

If any person shall, while in this State, consent to become a party to any such contract made in another state, and if any person shall, as agent of any person or corporation, become a party to any such contract made in another state, or in this State do any act or in any way aid in the making or furthering of any such contract so made in another state, he shall be guilty of a ~~misdemeanor, and on conviction shall be fined not less than fifty ($50.00) nor more than two hundred dollars ($200.00), and may be imprisoned in the discretion of the court,~~ Class 1 misdemeanor."

-----OPENING OFFICE FOR SALES OF "FUTURES" MISDEMEANOR

Sec. 305. G.S. 16-5 reads as rewritten:

"*§ 16-5. Opening office for sales of 'futures' misdemeanor.*

If any person, corporation or other association of persons, either as principal or agent, shall establish or open an office or place of business in this State for the purpose of carrying on or engaging in making such contracts as are forbidden in this Article, he shall be guilty of a Class 1 misdemeanor. ~~misdemeanor, and shall on conviction be fined and imprisoned in the discretion of the court.~~"

-----RECOMMITTAL AFTER DISCHARGE; PENALTY

Sec. 306. G.S. 17-25 reads as rewritten:

"*§ 17-25. Recommittal after discharge; penalty.*

If any person shall knowingly again imprison or detain one who has been set at large upon any writ of habeas corpus, for the same cause, other than by the legal process or order of the court wherein he is bound by recognizance to appear, or of any other court having jurisdiction in the case, he shall be guilty of a Class 1 misdemeanor."

-----PENALTY FOR FALSE RETURN TO A WRIT OF HABEAS CORPUS

Sec. 307. G.S. 17-27 reads as rewritten:

"*§ 17-27. Penalty for false return.*

If any person shall make a false return to a writ of habeas corpus, he shall be guilty of a Class 1 misdemeanor."

-----PENALTY FOR CONCEALING PARTY ENTITLED TO WRIT

Sec. 308. G.S. 17-28 reads as rewritten:

"*§ 17-28. Penalty for concealing party entitled to writ.*

If anyone having in his custody, or under his power, any party who, by law, would be entitled to a writ of habeas corpus, or for whose relief such writ shall have been issued, shall, with intent to elude the service of such writ, or to avoid the effect thereof, transfer the party to the custody, or put him under the power or control, of another, or shall conceal or change the place of his confinement, or shall knowingly aid or abet another in so doing, he shall be guilty of a Class 1 misdemeanor."

-----APPLICATION OF MOTOR VEHICLES LAWS AT THE JUSTICE ACADEMY

Sec. 309. G.S. 17D-4(f) reads as rewritten:

"(f) Violation of an ordinance adopted under any portion of this section is a ~~misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days, in the discretion of the court.~~ Class 3 misdemeanor. An ordinance may provide that certain acts prohibited thereby shall not be enforced by criminal sanctions, and in such cases a person committing any such act shall not be guilty of a misdemeanor."

-----MANUFACTURE, SALE, ETC., FORBIDDEN EXCEPT AS AUTHORIZED

Sec. 310. G.S. 18B-102(b) reads as rewritten:

"(b) Violation a Misdemeanor. -- Unless a different punishment is otherwise expressly stated, any person who violates any provision of this Chapter shall be guilty of a ~~misdemeanor and upon conviction shall be punished by a fine, by imprisonment for not more than two years, or both.~~ Class 1 misdemeanor. In addition the court may impose the provisions of G.S. 18B-202 and of G.S. 18B-503, 18B-504, and 18B-505."

-----SALE TO OR PURCHASE BY UNDERAGE PERSONS

Sec. 311. G.S. 18B-302(c) reads as rewritten:

"(c) Aider and Abettor.

(1) By Underage Person. -- Any person who is under the lawful age to purchase and who aids or abets another in violation of subsection (a) or (b) of this section shall be guilty of a ~~misdemeanor punishable by a fine up to five hundred dollars ($500.00) or imprisonment for not more than six months, or both, in the discretion of the court.~~ Class 2 misdemeanor.

(2) By Person over Lawful Age. -- Any person who is over the lawful age to purchase and who aids or abets another in violation of subsection (a) or (b) of this section shall be guilty of a ~~misdemeanor punishable by a fine of up to two thousand dollars ($2,000) or imprisonment for not more than two years, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----MANNER OF TRANSPORTATION

Sec. 312. G.S. 18B-401(a) reads as rewritten:

"(a) Opened Containers. -- It shall be unlawful for a person to transport fortified wine or spirituous liquor in the passenger area of a motor vehicle in other than the manufacturer's unopened original container. It shall be unlawful for a person who is driving a motor vehicle on a highway or public vehicular area to consume in the passenger area of that vehicle any malt beverage or unfortified wine. Violation of this subsection shall constitute a ~~misdemeanor punishable by a fine of twenty-five dollars ($25.00) to five hundred dollars ($500.00), imprisonment for not more than 30 days, or both.~~ Class 3 misdemeanor."

-----INSPECTION OF LICENSED PREMISES

Sec. 313. G.S. 18B-502(b) reads as rewritten:

"(b) Interference with Inspection. -- Refusal by a permittee or by any employee of a permittee to permit officers to enter the premises to make an inspection authorized by subsection (a) shall be cause for revocation, suspension or other action against the permit of the

permittee as provided in G.S. 18B-104. It shall be a ~~misdemeanor punishable by a fine of up to five hundred dollars ($500.00), imprisonment for up to six months, or both,~~ Class 2 misdemeanor, for any person to resist or obstruct an officer attempting to make a lawful inspection under this section."

-----PROTECTION OF BLACK BEARS

Sec. 314. G.S. 19A-13 reads as rewritten:

"*§ 19A-13. Violation of Article.*

Violation of the provisions of this Article shall constitute a ~~misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) or by imprisonment for not less than 90 days,~~ Class 2 misdemeanor."

-----OPERATION OF PET SHOP, KENNEL OR AUCTION WITHOUT LICENSE

Sec. 315. G.S. 19A-33 reads as rewritten:

"*§ 19A-33. Penalty for operation of pet shop, kennel or auction without license.*

Operation of a pet shop, kennel, or public auction without a currently valid license shall constitute a Class 3 misdemeanor subject only to a penalty of not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00), and each day of operation shall constitute a separate offense."

-----ACTING AS DEALER WITHOUT LICENSE; DISPOSITION OF ANIMALS

Sec. 316. G.S. 19A-34 reads as rewritten:

"*§ 19A-34. Penalty for acting as dealer without license; disposition of animals in custody of unlicensed dealer.*

Acting as a dealer in animals as defined in this Article without a currently valid dealer's license shall constitute a ~~misdemeanor subject to a penalty of not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00), or imprisonment for a period not to exceed six months, or both fine and imprisonment.~~ Class 2 misdemeanor. Continued illegal operation after conviction shall constitute a separate offense. Animals found in possession or custody of an unlicensed dealer shall be subject to immediate seizure and impoundment and upon conviction of such unlicensed dealer shall become subject to sale or euthanasia in the discretion of the Director."

-----PENALTY FOR VIOLATION OF ARTICLE BY DOG WARDEN

Sec. 317. G.S. 19A-36 reads as rewritten:

"*§ 19A-36. Penalty for violation of Article by dog warden.*

Violation of any provision of this Article which relates to the seizing, impoundment, and custody of an animal by a dog warden shall constitute a Class 3 misdemeanor and the person convicted

thereof shall be subject to a fine of not less than fifty dollars ($50.00) and not more than one hundred dollars ($100.00), and each animal handled in violation shall constitute a separate offense."

-----ANIMAL CRUELTY INVESTIGATORS

Sec. 318. G.S. 19A-48 reads as rewritten:

"*§ 19A-48. Interference unlawful.*

It shall be a ~~misdemeanor punishable by a fine of up to two hundred dollars ($200.00) or not more than ninety days imprisonment, or both,~~ Class 1 misdemeanor, to interfere with an animal cruelty investigator in the performance of his official duties."

-----APPLICATION OF MINORS

Sec. 319. G.S. 20-11(a) reads as rewritten:

"(a) The Division shall not grant the application of any minor between the ages of 16 and 18 years for a driver's license or a learner's permit unless such application is signed both by the applicant and by the parent, guardian, husband, wife or employer of the applicant, or, if the applicant has no parent, guardian, husband, wife or employer residing in this State, by some other responsible adult person. It shall be unlawful for any person to sign the application of a minor under the provisions of this section when such application misstates the age of the minor and any person knowingly violating this provision shall be guilty of a Class 2 misdemeanor.

The Division shall not grant the application of any minor between the ages of 16 and 18 years for a driver's license unless such minor presents evidence of having satisfactorily completed the driver training and safety education courses offered at the public high schools as provided in G.S. 20-88.1 or upon having satisfactorily completed a course of driving instruction offered at a licensed commercial driver training school or an approved nonpublic secondary school, provided instruction offered in such schools shall be approved by the State Commissioner of Motor Vehicles and the State Superintendent of Public Instruction and all expenses for such instruction shall be paid by the persons enrolling in such courses and/or by the schools offering them."

-----UNLAWFUL TO DRIVE WHILE LICENSE REVOKED

Sec. 320. G.S. 20-28(a) reads as rewritten:

"(a) Driving While License Revoked. -- Any person whose drivers license has been revoked, other than permanently, who drives any motor vehicle upon the highways of the State while the license is revoked is guilty of a Class 1 misdemeanor. Upon conviction, the person's license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense.

~~Upon conviction, a violator of this subsection shall be punished by a fine of not less than two hundred dollars ($200.00), imprisonment in the discretion of the court not to exceed two years, or both.~~ The restoree of a revoked drivers license who operates a motor vehicle upon the highways of the State without maintaining financial responsibility as provided by law shall be punished as for operating without a drivers license."

Sec. 321. G.S. 20-28(b) reads as rewritten:

"(b) Driving While License Permanently Revoked. -- Any person whose license has been permanently revoked who drives any motor vehicle upon the highways of this State while the license is permanently revoked is guilty of a ~~misdemeanor and shall be imprisoned for not less than 30 days nor more than two years and fined not more than one thousand dollars ($1,000) in the discretion of the court.~~ Class 1 misdemeanor. The first 30 days of imprisonment for a violation of this offense shall not be subject to suspension or parole. This subsection shall not apply to any license revocations under G.S. 20-17.1; penalty for violation of G.S. 20-17.1 shall be applied as prescribed under subsection (a)."

Sec. 322. G.S. 20-28(d) reads as rewritten:

"(d) Driving While Disqualified. -- A person who was convicted of a violation that disqualified the person and required the person's drivers license to be revoked who drives a motor vehicle during the revocation period is punishable as provided in the other subsections of this section. A person who has been disqualified who drives a commercial motor vehicle during the disqualification period is guilty of a Class 1 misdemeanor and is disqualified for an additional period as follows:

(1) For a first offense of driving while disqualified, a person is disqualified for a period equal to the period for which the person was disqualified when the offense occurred.

(2) For a second offense of driving while disqualified, a person is disqualified for a period equal to two times the period for which the person was disqualified when the offense occurred.

(3) For a third offense of driving while disqualified, a person is disqualified for life.

The Division may reduce a disqualification for life under this subsection to 10 years in accordance with the guidelines adopted under G.S. 20-17.4(b). A person who drives a commercial motor vehicle while the person is disqualified and the person's drivers license is revoked is punishable for both driving while the person's license was revoked and driving while disqualified."

-----SURRENDER OF LICENSE

Sec. 323. G.S. 20-29 reads as rewritten:

"*§ 20-29. Surrender of license.*

Any person operating or in charge of a motor vehicle, when requested by an officer in uniform, or, in the event of accident in which the vehicle which he is operating or in charge of shall be involved, when requested by any other person, who shall refuse to write his name for the purpose of identification or to give his name and address and the name and address of the owner of such vehicle, or who shall give a false name or address, or who shall refuse, on demand of such officer or such other person, to produce his license and exhibit same to such officer or such other person for the purpose of examination, or who shall refuse to surrender his license on demand of the Division, or fail to produce same when requested by a court of this State, shall be guilty of a ~~misdemeanor and upon conviction shall be punished as provided in this Article.~~ Class 2 misdemeanor. Pickup notices for drivers' licenses or revocation or suspension of license notices and orders or demands issued by the Division for the surrender of such licenses may be served and executed by patrolmen or other peace officers or may be served in accordance with G.S. 20-48. Patrolmen and peace officers, while serving and executing such notices, orders and demands, shall have all the power and authority possessed by peace officers when serving the executing warrants charging violations of the criminal laws of the State."

-----UNIFORM DRIVERS LICENSE ACT

Sec. 324. G.S. 20-35 reads as rewritten:

"*§ 20-35. Penalties for misdemeanor.*

(a) It shall be a Class 2 misdemeanor to violate any of the provisions of this Article unless such violation is by this Article or other law of this State declared to be a felony.

(b) Unless another penalty is in this Article or by the laws of this State provided, every person convicted of a ~~misdemeanor for the violation of any provision of this Article shall be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than six months.~~ Class 2 misdemeanor.

(c) A person may not be convicted of failing to carry a regular drivers license if, when tried for that offense, the person produces in court a regular drivers license issued to the person that was valid when the person was charged with the offense. A person may not be convicted of driving a motor vehicle without a regular drivers license if, when tried for that offense, the person shows all the following:

(1) That, at the time of the offense, the person had an expired license.

(2) The person renewed the expired license within 30 days after it expired and now has a drivers license.
(3) The person could not have been charged with driving without a license if the person had the renewed license when charged with the offense."

-----SPECIAL IDENTIFICATION CARD

Sec. 325. G.S. 20-37.7(e) reads as rewritten:

"(e) Any fraud or misrepresentation in the application for or use of a special identification card issued under this section is a ~~misdemeanor, punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment of 90 days, or both.~~ Class 2 misdemeanor. "

-----FRAUDULENT USE OF A FICTITIOUS NAME FOR A SPECIAL IDENTIFICATION CARD

Sec. 326. G.S. 20-37.8(b) reads as rewritten:

"(b) A violation of this section shall constitute a Class 2 misdemeanor."

-----COMMERCIAL DRIVERS LICENSE

Sec. 327. G.S. 20-37.21(a) reads as rewritten:

"(a) Any person who drives a commercial motor vehicle in violation of G.S. 20-37.12 shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than two hundred fifty dollars ($250.00) for a first offense and not less than five hundred dollars ($500.00) for a second or subsequent offense."

-----LICENSES AND PLATES FOR UNDERCOVER OFFICERS

Sec. 328. G.S. 20-39(h) reads as rewritten:

"(h) The Commissioner, notwithstanding any other provision of this Chapter, may lawfully and to the extent necessary, provide local, State or federal law-enforcement officers on special undercover assignments with motor vehicle drivers licenses and motor vehicle registration plates under assumed names using false or fictitious addresses. Such registration plates shall only be used on publicly owned or leased vehicles. Requests for these licenses and registration plates shall be made to the Commissioner by the head of the local, State or federal law-enforcement agency and be accompanied by approval in writing from the Director of the State Bureau of Investigation upon a specific finding by the Director that the request is justified and necessary. The Director shall keep a record of all such licenses, registration plates, assumed names, false or fictitious addresses, and law-enforcement officers using the licenses or registration plates, and shall request the immediate return of any license or registration plate that is no longer necessary. Licenses and registration plates provided under this subsection shall expire six months after initial issuance or subsequent validation after the request

for extension has been approved in writing by the Director of the State Bureau of Investigation. The head of the local, State or federal law-enforcement agency shall be responsible for the use of the licenses and registration plates and shall return them immediately to the Commissioner for cancellation upon either (i) their expiration, (ii) request of the Director of the State Bureau of Investigation, or (iii) request of the Commissioner. Failure to return a license or registration plates issued pursuant to this subsection shall be punished as a ~~general~~ Class 2 misdemeanor. At no time shall the number of valid licenses and registration plates issued under this act exceed one hundred, and those issued shall be strictly monitored by the Director. All of the private registration plates issued to special agents of the State Bureau of Investigation under the Department of Justice and to alcohol law enforcement agents under the Department of Crime Control and Public Safety, pursuant to G.S. 14-250, may be fictitious plates and shall not be counted in the total number of fictitious plates authorized by this subsection."

-----SEIZURE OF DOCUMENTS AND PLATES

Sec. 329. G.S. 20-45(b) reads as rewritten:

"(b) Nothing contained herein or elsewhere shall be construed to require the Division to take possession of any certificate of title, registration card permit, license, or registration plate which has expired, been revoked, canceled or suspended or which is fictitious or which has been unlawfully or erroneously issued, or which has been unlawfully used. The Division may give notice to the owner, licensee or lessee of its authority to take possession of any ownership document, operator's license, or plate and require that person to surrender it to the Commissioner or his officers or agents. Any person who fails to surrender the ownership document, operator's license, or plate, or any duplicate thereof upon personal service of notice or within 10 days after receipt of notice by mail, as provided in G.S. 20-48, shall be guilty of a Class 2 misdemeanor."

-----DIVISION MAY SUMMON WITNESSES AND TAKE TESTIMONY

Sec. 330. G.S. 20-47(b) reads as rewritten:

"(b) Every such summons shall be served at least five days before the return date, either by personal service made by any person over 18 years of age or by registered mail, but return acknowledgment is required to prove such latter service. Failure to obey such a summons so served shall constitute a Class 2 misdemeanor. The fees for the attendance and travel of witnesses shall be the same as for witnesses before the superior court."

-----SALE OF NEW VEHICLE

Sec. 331. G.S. 20-52.1(c) reads as rewritten:

"(c) Upon sale of a new vehicle by a dealer to a consumer-purchaser, the dealer shall execute in the presence of a person authorized to administer oaths an assignment of the manufacturer's certificate of origin for the vehicle, including in such assignment the name and address of the transferee and no title to a new motor vehicle acquired by a dealer under the provisions of subsections (a) and (b) of this section shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee.

Any dealer transferring title to, or an interest in, a new vehicle shall deliver the manufacturer's certificate of origin duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the manufacturer's certificate of origin to the lienholder and the lienholder shall forthwith forward the manufacturer's certificate of origin together with the transferee's application for certificate of title and necessary fees to the Division. Any person who delivers or accepts a manufacturer's certificate of origin assigned in blank shall be guilty of a Class 2 misdemeanor."

-----LIENOR HOLDING TITLE TO SURRENDER WHEN LIEN SATISFIED

Sec. 332. G.S. 20-59 reads as rewritten:

"*§ 20-59. Unlawful for lienor who holds certificate of title not to surrender same when lien satisfied.*

It shall be unlawful and constitute a Class 3 misdemeanor for a lienor who holds a certificate of title as provided in this Article to refuse or fail to surrender such certificate of title to the person legally entitled thereto, when called upon by such person, within 10 days after his lien shall have been paid and ~~satisfied, and any person convicted under this section shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days,~~ satisfied."

-----REGISTRATION PLATES

Sec. 333. G.S. 20-63(a) reads as rewritten:

"(a) The Division upon registering a vehicle shall issue to the owner one registration plate for a motorcycle, trailer or semitrailer and for every other motor vehicle. Registration plates issued by the Division under this Article shall be and remain the property of the State, and it shall be lawful for the Commissioner or his duly authorized agents to summarily take possession of any plate or plates which he has reason to believe is being illegally used, and to keep in his possession such plate or plates pending investigation and legal disposition of the same. Whenever the Commissioner finds that any registration plate issued for any vehicle pursuant to the provisions of

this Article has become illegible or is in such a condition that the numbers thereon may not be readily distinguished, he may require that such registration plate, and its companion when there are two registration plates, be surrendered to the Division. When said registration plate or plates are so surrendered to the Division, a new registration plate or plates shall be issued in lieu thereof without charge. The owner of any vehicle who receives notice to surrender illegible plate or plates on which the numbers are not readily distinguishable and who willfully refuses to surrender said plates to the Division shall be guilty of a Class 2 misdemeanor."

Sec. 334. G.S. 20-63(e) reads as rewritten:

"(e) Preservation and Cleaning of Registration Plates. -- It shall be the duty of each and every registered owner of a motor vehicle to keep the registration plates assigned to such motor vehicle reasonably clean and free from dust and dirt, and such registered owner, or any person in his employ, or who operates such motor vehicle by his authority, shall, upon the request of any proper officer, immediately clean such registration plates so that the numbers thereon may be readily distinguished, and any person who shall neglect or refuse to so clean a registration plate, after having been requested to do so, shall be guilty of a ~~misdemeanor, and fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor."

Sec. 335. G.S. 20-63(f) reads as rewritten:

"(f) Operating with False Numbers. -- Any person who shall willfully operate a motor vehicle with a registration plate which has been repainted or altered or forged shall be guilty of a Class 2 misdemeanor."

Sec. 336. G.S. 20-63(g) reads as rewritten:

"(g) Alteration, Disguise, or Concealment of Numbers. -- Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, shall be guilty of a Class 2 misdemeanor."

-----FAILURE TO DISCLOSE DAMAGE TO A VEHICLE

Sec. 337. G.S. 20-71.4 reads as rewritten:

"*§ 20-71.4. Failure to disclose damage to a vehicle shall be a misdemeanor.*

(a) It shall be unlawful and constitute a Class 2 misdemeanor for any transferor who knows or reasonably should know that a motor vehicle has been involved in a collision or other occurrence to the extent that the cost of repairing that vehicle exceeds twenty-five percent (25%) of its fair market retail value, or that the motor vehicle is, or was, a flood vehicle, a reconstructed vehicle, or a salvage motor vehicle, to fail to disclose that fact in writing to the transferee prior to transfer of any vehicle up to five model years old. Failure to disclose any of the above information will also result in civil liability under G.S. 20-348. The Commissioner may prepare forms to carry out the provisions of this section.

(b) It shall be unlawful for any person to remove the title or supporting documents to any motor vehicle from the State of North Carolina with the intent to conceal damage (or damage which has been repaired) occurring as a result of a collision or other occurrence. Violation of this statute shall constitute a Class 2 misdemeanor."

-----TRANSFER BY OWNER

Sec. 338. G.S. 20-72(b) reads as rewritten:

"(b) In order to assign or transfer title or interest in any motor vehicle registered under the provisions of this Article, the owner shall execute in the presence of a person authorized to administer oaths an assignment and warranty of title on the reverse of the certificate of title in form approved by the Division, including in such assignment the name and address of the transferee; and no title to any motor vehicle shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee. The provisions of this section shall not apply to any foreclosure or repossession under a chattel mortgage or conditional sales contract or any judicial sale.

Any person transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new title and necessary fees to the Division within 20 days. Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1."

-----NEW OWNER MUST GET NEW CERTIFICATE OF TITLE

Sec. 339. G.S. 20-73(c) reads as rewritten:

"(c) Penalties. -- A person to whom a vehicle is transferred who fails to apply for a certificate of title within the required time is subject to a civil penalty of ten dollars ($10.00) and is guilty of a Class 2 misdemeanor. A person who undertakes to apply for a certificate of title on behalf of another person and who fails to apply for a title within the required time is subject to a civil penalty of ten dollars ($10.00). When a person to whom a vehicle is transferred fails to obtain a title within the required time because a person who undertook to apply for the certificate of title did not do so within the required time, the Division may impose a civil penalty only on the person who undertook to apply for the title. Civil penalties collected under this subsection shall be credited to the Highway Fund."

-----FALSE STATEMENT ABOUT TRANSFER OF VEHICLE

Sec. 340. G.S. 20-74 reads as rewritten:

"*§ 20-74. Penalty for making false statement about transfer of vehicle.*

A dealer or another person who, in an application required by this Division, knowingly makes a false statement about the date a vehicle was sold or acquired shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----WHEN TRANSFEREE IS DEALER OR INSURANCE COMPANY

Sec. 341. G.S. 20-75 reads as rewritten:

"*§ 20-75. When transferee is dealer or insurance company.*

When the transferee of any vehicle registered under the foregoing provision of this Article is a licensed dealer who holds the same for resale and operates the same only for purpose of demonstration under a dealer's number plate, or a duly licensed insurance company taking such vehicle for sale or disposal for salvage purposes where such title is taken as a part of a bona fide claim settlement transaction and only for the purpose of resale, such transferee shall not be required to register such vehicle nor forward the certificate of title to the Division as provided in G.S. 20-73. To assign or transfer title or interest in such vehicle, the dealer or insurance company shall execute in the presence of a person authorized to administer oaths a reassignment and warranty of title on the reverse of the certificate of title in form approved by the Division, including in such reassignment the name and address of the transferee, and title to such vehicle shall not pass or vest until such reassignment is executed and the motor vehicle delivered to the transferee.

The dealer transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest in the motor vehicle is

obtained from the transferee in payment of the purchase price or otherwise, the dealer shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new certificate of title and necessary fees to the Division within 20 days. Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1."

-----UNCLAIMED VEHICLES

Sec. 342. G.S. 20-77(d) reads as rewritten:

"(d) An operator of a place of business for garaging, repairing, parking or storing vehicles for the public in which a vehicle remains unclaimed for 30 days, or the landowners upon whose property a motor vehicle has been abandoned for more than 60 days, shall, within five days after the expiration of that period, report the vehicle as unclaimed to the Division. Failure to make such report shall constitute a ~~misdemeanor punishable by fine not to exceed fifty dollars ($50.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court,~~ Class 3 misdemeanor.

Any vehicle which remains unclaimed after report is made to the Division may be sold by such operator or landowner in accordance with the provisions relating to the enforcement of liens and the application of proceeds of sale of Article 1 of Chapter 44A."

-----REGISTRATION BY MANUFACTURERS AND DEALERS

Sec. 343. G.S. 20-79(a) reads as rewritten:

"(a) Every manufacturer of or dealer in motor vehicles, trailers or semitrailers shall apply to the Motor Vehicle Division for a license as such upon official forms and shall in his application give the name of the manufacturer or dealer and his bona fide address of each partner; if a corporation, the name of the corporation and the state of incorporation; the bona fide address of the place of business; whether a dealer in new vehicles or in used vehicles and shall state how long in business. Upon receipt of said application the Division shall upon the payment of fees as required by law issue a license to such applicant, together with number plates, which plates shall bear thereon a distinctive number, the name of this State, which may be abbreviated, the year for which issued, together with the word dealer or a distinguishing symbol indicating that such plate or plates are issued to a dealer. The plates so issued may during the year for which issued be transferred from one vehicle to another owned and operated by such manufacturer or dealer.

Dealer and manufacturer plates shall after June 30, 1980, be issued on a fiscal year basis beginning July 1, and plates issued for fiscal

year beginning July 1 shall expire on June 30 following the date of issuance.

Any person to whom license and number plates are issued under the provisions of this subsection upon discontinuing business as a dealer or manufacturer shall forthwith surrender to the Division license and all number plates so issued to him.

No person, firm, or corporation shall engage in the business of buying, selling, distributing or exchanging motor vehicles, trailers or semitrailers in this State unless he or it qualifies for and obtains the license required by this section.

Any person, firm, or corporation violating any provision of this subsection shall be guilty of a ~~misdemeanor and for each offense shall be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) and may be imprisoned for not more than 60 days, or both such fine and imprisonment.~~ Class 2 misdemeanor."

-----PARTIAL PAYMENTS OF LICENSE FEES

Sec. 344. G.S. 20-94 reads as rewritten:

"§ *20-94. Partial payments.*

In the purchase of licenses, where the gross amount of the license fee to any one owner amounts to more than four hundred dollars ($400.00), half of such payment may, if the Commissioner is satisfied of the financial responsibility of such owner, be deferred until June 1 in any calendar year upon the execution to the Commissioner of a draft upon any bank or trust company upon forms to be provided by the Commissioner in an amount equivalent to one half of such fee, plus a carrying charge of three percent (3%) of the deferred portion of the license fee: Provided, that any person using any tag so purchased after the first day of June in any such year without having first provided for the payment of such draft, shall be guilty of a Class 2 misdemeanor. No further license plates shall be issued to any person executing such a draft after the due date of any such draft so long as such draft or any portion thereof remains unpaid. Any such draft being dishonored and not paid shall be subject to the penalties prescribed in G.S. 20-178 and shall be immediately turned over by the Commissioner to his duly authorized agents and/or the State Highway Patrol, to the end that this provision may be enforced. When the owner of the vehicles for which a draft has been given sells or transfers ownership to all vehicles covered by the draft, such draft shall become payable immediately, and such vehicles shall not be transferred by the Division until the draft has been paid. Any one owner whose gross license fee amounts to more than two hundred dollars ($200.00) but not more than four hundred dollars ($400.00) may also be permitted to sign a draft in accordance with the foregoing

provisions of this section provided such owner makes application for the draft on or before February 1 during the license renewal period."

-----OVERLOADING OF A MOTOR VEHICLE

Sec. 345. G.S. 20-96 reads as rewritten:

"*§ 20-96. Overloading.*

It is the intent of this section that every owner of a motor vehicle shall procure license in advance to cover the empty weight and maximum load which may be carried. Any owner failing to do so, and whose vehicle shall be found in operation on the highway over the weight for which such vehicle is licensed, shall pay the penalties prescribed in G.S. 20-118(e)(3). Nonresidents operating under the provisions of G.S. 20-83 shall be subject to the additional tax provided in this section when their vehicles are operated in excess of the licensed weight or, regardless of the licensed weight, in excess of the maximum weight provided for in G.S. 20-118. Any resident or nonresident owner of a vehicle that is found in operation on a highway designated by the Board of Transportation as a light traffic highway, and along which signs are posted showing the maximum legal weight on said highway with a load in excess of the weight posted for said highway, shall be subject to the penalties provided in G.S. 20-118(e)(1). Any person who shall willfully violate the provisions of this section shall be guilty of a Class 2 misdemeanor in addition to being liable for the additional tax herein prescribed.

Any peace officer who discovers a property-hauling vehicle being operated on the highways with an overload as described in this section or which is equipped with improper registration plates, or the owner of which is liable for any overload penalties or assessments applicable to the vehicle and due and unpaid for more than 30 days, is hereby authorized to seize said property-hauling vehicle and hold the same until the overload has been removed or proper registration plates therefor have been secured and attached thereto and the penalties owed under this section and G.S. 20-118.3 have been paid. Any peace officer seizing a property-hauling vehicle under this provision, may, when necessary, store said vehicle and the owner thereof shall be responsible for all reasonable storage charges thereon. When any property-hauling vehicle is seized, held, unloaded or partially unloaded under this provision, the load or any part thereof shall be cared for by the owner or operator of the vehicle without any liability on the part of the officer or of the State or any municipality because of damage to or loss of such load or any part thereof."

-----FALSE REPORT OF THEFT OR CONVERSION A MOTOR VEHICLE

Sec. 346. G.S. 20-102.1 reads as rewritten:

"*§ 20-102.1. False report of theft or conversion a misdemeanor.*

A person who knowingly makes to a peace officer or to the Division a false report of the theft or conversion of a motor vehicle shall be guilty of a ~~misdemeanor, punishable within discretion of the court.~~ Class 2 misdemeanor."

-----SUBLEASE AND LOAN ASSUMPTION OF A MOTOR VEHICLE

Sec. 347. G.S. 20-106.2(e) reads as rewritten:

"(e) All other offenses under subsection (b) of this section are ~~misdemeanors under G.S. 14-3(a).~~ Class 1 misdemeanors. Each failure to disclose the location of the vehicle under subdivision (b)(3) shall constitute a separate offense."

-----INJURING OR TAMPERING WITH VEHICLE

Sec. 348. G.S. 20-107 reads as rewritten:

"*§ 20-107. Injuring or tampering with vehicle.*

(a) Any person who either individually or in association with one or more other persons willfully injures or tampers with any vehicles or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a ~~misdemeanor, and upon conviction shall be punished by a fine or imprisonment, or both, in the discretion of the court.~~ Class 2 misdemeanor.

(b) Any person who with intent to steal, commit any malicious mischief, injury or other crime, climbs into or upon a vehicle, whether it is in motion or at rest, or with like intent attempts to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets in motion any vehicle while the same is at rest and unattended, is guilty of a ~~misdemeanor, and upon conviction shall be punished by a fine or imprisonment, or both, in the discretion of the court.~~ Class 2 misdemeanor."

-----VEHICLES OR COMPONENT PARTS WITHOUT MANUFACTURER'S NUMBERS

Sec. 349. G.S. 20-108(a) reads as rewritten:

"(a) Any person who knowingly buys, receives, disposes of, sells, offers for sale, conceals, or has in his possession any motor vehicle, or engine or transmission or component part which has been stolen or removed from a motor vehicle and from which the manufacturer's serial or engine number or other distinguishing number or identification mark or number placed thereon under assignment from the Division has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of said motor vehicle or engine or transmission or component part is guilty of a ~~misdemeanor, and upon conviction shall be punished by a fine of not more than one thousand dollars ($1,000) or up to six months~~

~~imprisonment, or both, in the discretion of the court.~~ Class 2 misdemeanor."

-----SURRENDER OF TITLES TO SALVAGE VEHICLES

Sec. 350. G.S. 20-109.1(d) reads as rewritten:

"(d) A violation of any provision of this section shall constitute a ~~misdemeanor punishable by a fine of not more than one hundred dollars ($100.00) or imprisonment for not more than two years, or both, in the discretion of the court.~~ Class 1 misdemeanor. In addition to these criminal penalties, any person who violates this section is subject to a civil penalty of up to one hundred dollars ($100.00), to be imposed in the discretion of the Commissioner."

-----VIOLATION OF MOTOR VEHICLE REGISTRATION PROVISIONS

Sec. 351. G.S. 20-111(3) reads as rewritten:

"(3) The giving, lending, or borrowing of a license plate for the purpose of using same on some motor vehicle other than that for which issued shall make the giver, lender, or borrower guilty of a ~~misdemeanor, and upon conviction he shall be fined not more than fifty dollars ($50.00), or imprisoned not more than 30 days.~~ Class 3 misdemeanor. Where license plate is found being improperly used, such plate or plates shall be revoked or canceled, and new license plates must be purchased before further operation of the motor vehicle."

Sec. 352. G.S. 20-111(5) reads as rewritten:

"(5) To use a false or fictitious name or address in any application for the registration of any vehicle or for a certificate of title or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application. A violation of this subdivision shall constitute a ~~misdemeanor punishable in the discretion of the court not to exceed two years~~ Class 1 misdemeanor."

Sec. 353. G.S. 20-111(6) reads as rewritten:

"(6) To give, lend, sell or obtain a certificate of title for the purpose of such certificate being used for any purpose other than the registration, sale, or other use in connection with the vehicle for which the certificate was issued. Any person violating the provisions of this subdivision shall be guilty of a Class 2 misdemeanor."

-----LIMITATIONS ON TANDEM TRAILERS

Sec. 354. G.S. 20-115.1(i) reads as rewritten:

"(i) Any driver of a vehicle with a semitrailer less than 50 feet in length violating subsections (a) or (b) of this section is guilty of a

Class 3 misdemeanor punishable only by a fine of one hundred dollars ($100.00). Any driver of a vehicle with a semitrailer 50 feet or more in length violating subsection (b) of this section is guilty of a Class 3 misdemeanor punishable only by a fine of two hundred dollars ($200.00)."

-----SIZE OF VEHICLES AND LOADS

Sec. 355. G.S. 20-116(h) reads as rewritten:

"(h) Whenever there exist two highways of the State highway system of approximately the same distance between two or more points, the Department of Transportation may, when in the opinion of the Department of Transportation, based upon engineering and traffic investigation, safety will be promoted or the public interest will be served, designate one of the highways the "truck route" between those points, and to prohibit the use of the other highway by heavy trucks or other vehicles of a gross vehicle weight or axle load limit in excess of a designated maximum. In such instances the highways selected for heavy vehicle traffic shall be designated as 'truck routes' by signs conspicuously posted, and the highways upon which heavy vehicle traffic is prohibited shall likewise be designated by signs conspicuously posted showing the maximum gross vehicle weight or axle load limits authorized for those highways. The operation of any vehicle whose gross vehicle weight or axle load exceeds the maximum limits shown on signs over the posted highway shall constitute a Class 2 misdemeanor: Provided, that nothing in this subsection shall prohibit a truck or other motor vehicle whose gross vehicle weight or axle load exceeds that prescribed for those highways from using them when its destination is located solely upon that highway, road or street: Provided, further, that nothing in this subsection shall prohibit passenger vehicles or other light vehicles from using any highways designated for heavy truck traffic."

-----REFUSAL TO PERMIT WEIGHING

Sec. 356. G.S. 20-118.1 reads as rewritten:

"*§ 20-118.1. Peace officer may weigh vehicle and require removal of excess load; refusal to permit weighing.*

Any peace officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to weigh the same either by means of North Carolina Department of Transportation portable or stationary scales, and may require that such vehicle be driven to the nearest North Carolina Department of Transportation stationary scales or stationary scales approved by the North Carolina Department of Agriculture in the event such scales are within five miles. The officer may then require the driver to unload immediately such portion of the load as may be necessary to decrease the gross weight of such vehicle to the maximum therefor specified in this Article. All material so

unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator. Any person who refuses to permit a vehicle being operated by him to be weighed as in this section provided or who refuses to drive said vehicle upon the scales provided for weighing for the purpose of being weighed, shall be guilty of a Class 2 misdemeanor. No vehicle more than two miles from a North Carolina Department of Transportation stationary scales may be required to be driven to such scales unless the peace officer knows or reasonably suspects the vehicle has driven so as to avoid being weighed at the scales."

-----SPECIAL PERMITS FOR VEHICLES OF EXCESSIVE SIZE, ETC

Sec. 357. G.S. 20-119(d) reads as rewritten:

"(d) Violation of any of the terms or conditions of a special permit issued under this section shall be a Class 3 misdemeanor. A person convicted of a Class 3 misdemeanor under this section shall be subject to a fine of not more than five hundred dollars ($500.00)."

-----SECURELY FASTENING LOAD

Sec. 358. G.S. 20-120 reads as rewritten:

"*§ 20-120. Operation of flat trucks on State highways regulated; trucks hauling leaf tobacco in barrels or hogsheads.*

It shall be unlawful for any person, firm or corporation to operate, or have operated on any public highway in the State any open, flat truck loaded with logs, cotton bales, boxes or other load piled on said truck, without having the said load securely fastened on said truck.

It shall be unlawful for any firm, person or corporation to operate or permit to be operated on any highway of this State a truck or trucks on which leaf tobacco in barrels or hogsheads is carried unless each section or tier of such barrels or hogsheads are reasonably securely fastened to such truck or trucks by metal chains or wire cables, or manila or hemp ropes of not less than five-eighths inch in diameter, to hold said barrels or hogsheads in place under any ordinary traffic or road condition: Provided that the provisions of this paragraph shall not apply to any truck or trucks on which the hogsheads or barrels of tobacco are arranged in a single layer, tier, or plane, it being the intent of this paragraph to require the use of metal chains or wire cables only when barrels or hogsheads of tobacco are stacked or piled one upon the other on a truck or trucks. Nothing in this paragraph shall apply to trucks engaged in transporting hogsheads or barrels of tobacco between factories and storage houses of the same company unless such hogsheads or barrels are placed upon the truck in tiers. In the event the hogsheads or barrels of tobacco are placed upon the truck in tiers same shall be securely fastened to the said truck as hereinbefore provided in this paragraph.

Any person violating the provisions of this section shall be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class 2 misdemeanor."

-----BRAKES

Sec. 359. G.S. 20-124(h) reads as rewritten:

"(h) From and after July 1, 1955, no person shall sell or offer for sale for use in motor vehicle brake systems in this State any hydraulic brake fluid of a type and brand other than those approved by the Commissioner of Motor Vehicles. From and after January 1, 1970, no person shall sell or offer for sale in motor vehicle brake systems any brake lining of a type or brand other than those approved by the Commissioner of Motor Vehicles. Violation of the provisions of this subsection shall constitute a Class 2 misdemeanor."

-----WINDSHIELDS MUST BE UNOBSTRUCTED

Sec. 360. G.S. 20-127(g) reads as rewritten:

"(g) With any delivery of tinted film for installation in vehicles, where approved film is required, the manufacturer shall provide the required labels with written instructions and materials for permanent installation. The use of any label that is not registered, or the misuse of any registered label to mislead motor vehicle safety inspectors, law enforcement officers, or other officials shall constitute a Class 2 misdemeanor."

-----USE OF RED OR BLUE LIGHTS ON VEHICLES PROHIBITED

Sec. 361. G.S. 20-130.1(e) reads as rewritten:

"(e) Violation of subsection (a) or (c) of this section is a ~~misdemeanor punishable under G.S. 14-3(a).~~ Class 1 misdemeanor."

-----OPERATION OF VEHICLES RESEMBLING LAW-ENFORCEMENT VEHICLES

Sec. 362. G.S. 20-137.2(b) reads as rewritten:

"(b) Violation of subsection (a) of this section is a ~~misdemeanor punishable under G.S. 14-3.~~ Class 1 misdemeanor."

-----IMPAIRED DRIVING IN COMMERCIAL VEHICLE

Sec. 363. G.S. 20-138.2(e) reads as rewritten:

"(e) Punishment; Effect When Impaired Driving Offense Also Charged. -- The offense in this section is a ~~misdemeanor punishable by a fine of not less than one hundred dollars ($100.00), up to two years imprisonment, or both.~~ Class 1 misdemeanor. This offense is not a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under this section and of an offense involving impaired driving under G.S. 20-138.1 arising out of the same transaction, the aggregate punishment imposed by the Court may not exceed the maximum punishment applicable to the offense involving impaired driving under G.S. 20-138.1."

-----PROVISIONAL LICENSEE CONSUMING ALCOHOL OR DRUGS

Sec. 364. G.S. 20-138.3(c) reads as rewritten:

"(c) Punishment; Effect When Impaired Driving Offense Also Charged. -- The offense in this section is a ~~misdemeanor punishable under G.S. 20-176(c).~~ Class 2 misdemeanor. It is not, in any circumstances, a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under this section and of an offense involving impaired driving arising out of the same transaction, the aggregate punishment imposed by the court may not exceed the maximum applicable to the offense involving impaired driving, and any minimum punishment applicable must be imposed."

-----RECKLESS DRIVING

Sec. 365. G.S. 20-140(d) reads as rewritten:

"(d) Reckless driving as defined in subsections (a) and (b) is a ~~misdemeanor, punishable by imprisonment not to exceed six months or a fine not to exceed five hundred dollars ($500.00), or both a fine and imprisonment.~~ Class 2 misdemeanor."

-----SPEED RESTRICTIONS

Sec. 366. G.S. 20-141(j) reads as rewritten:

"(j) Any person convicted of violating this section by operating a vehicle on a street or highway in excess of 55 miles per hour and at least 15 miles per hour over the legal limit while fleeing or attempting to elude arrest or apprehension by a law-enforcement officer with authority to enforce the motor vehicle laws is guilty of a ~~misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) or imprisonment for not more than two years, or both, in the discretion of the court.~~ Class 1 misdemeanor."

Sec. 367. G.S. 20-141(j1) reads as rewritten:

"(j1) A person who drives a vehicle on a highway at a speed that is more than 15 miles per hour more than the speed limit established by law for the highway where the offense occurred is guilty of a ~~misdemeanor punishable by imprisonment for up to 60 days, a fine up to two hundred dollars ($200.00), or both.~~ Class 2 misdemeanor."

-----UNLAWFUL RACING ON STREETS AND HIGHWAYS

Sec. 368. G.S. 20-141.3(a) reads as rewritten:

"(a) It shall be unlawful for any person to operate a motor vehicle on a street or highway willfully in prearranged speed competition with another motor vehicle. Any person violating the provisions of this subsection shall be guilty of a ~~misdemeanor and, upon conviction, shall be punished by a fine of not less than five hundred dollars ($500.00) or imprisonment for not less than 60 days, or both, in the discretion of the court.~~ Class 2 misdemeanor."

Sec. 369. G.S. 20-141.3(b) reads as rewritten:

"(b) It shall be unlawful for any person to operate a motor vehicle on a street or highway willfully in speed competition with another motor vehicle. Any person willfully violating the provisions of this subsection shall be guilty of a ~~misdemeanor and, upon conviction, shall be punished by a fine of not less than fifty dollars ($50.00), or imprisonment of not more than two years, or by both such fine and imprisonment in the discretion of the court.~~ Class 1 misdemeanor."

Sec. 370. G.S. 20-141.3(c) reads as rewritten:

"(c) It shall be unlawful for any person to authorize or knowingly permit a motor vehicle owned by him or under his control to be operated on a public street, highway, or thoroughfare in prearranged speed competition with another motor vehicle, or to place or receive any bet, wager, or other thing of value from the outcome of any prearranged speed competition on any public street, highway, or thoroughfare. Any person violating the provisions of this subsection shall be guilty of a Class 1 misdemeanor. ~~misdemeanor and, upon conviction, shall be punished by a fine or imprisonment not to exceed two years, or both, in the discretion of the court.~~"

-----FELONY AND MISDEMEANOR DEATH BY VEHICLE

Sec. 371. G.S. 20-141.4(b) reads as rewritten:

"(b) Punishments. -- Felony death by vehicle is a Class I felony. Misdemeanor death by vehicle is a ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than two years, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----PULLING OVER FOR EMERGENCY VEHICLE

Sec. 372. G.S. 20-157(a) reads as rewritten:

"(a) Upon the approach of any police or fire department vehicle or public or private ambulance or rescue squad emergency service vehicle giving warning signal by appropriate light and by audible bell, siren or exhaust whistle, audible under normal conditions from a distance not less than 1000 feet, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb, clear of any intersection of streets or highways, and shall stop and remain in such position unless otherwise directed by a police or traffic officer until police or fire department vehicle or public or private ambulance or rescue squad emergency service vehicle shall have passed. Provided, however, this subsection shall not apply to vehicles traveling in the opposite direction of the vehicles herein enumerated when traveling on a four-lane limited access highway with a median divider dividing the highway for vehicles traveling in opposite directions, and provided further that the violation of this subsection shall not be negligence per se. Violation of

this subsection is a ~~misdemeanor punishable as provided by G.S. 20-176,~~ Class 2 misdemeanor."

-----DUTY TO STOP IN EVENT OF ACCIDENT OR COLLISION

Sec. 373. G.S. 20-166(b) reads as rewritten:

"(b) In addition to complying with the requirement of (a), the driver as set forth in (a) shall give his name, address, driver's license number and the license plate number of his vehicle to the person struck or the driver or occupants of any vehicle collided with, provided that such person or persons are physically and mentally capable of receiving such information, and shall render to any person injured in such accident or collision reasonable assistance, including the calling for medical assistance if it is apparent that such assistance is necessary or is requested by the injured person. A violation of this subsection is a ~~misdemeanor punishable by a fine or by imprisonment for not more than two years, or both, in the discretion of the court,~~ Class 1 misdemeanor."

Sec. 374. G.S. 20-166(c) reads as rewritten:

"(c) The driver of any vehicle, when he knows or reasonably should know that the vehicle which he is operating is involved in an accident or collision, which accident or collision, results:

(1) Only in damage to property; or

(2) In injury or death to any person, but only if the operator of the vehicle did not know and did not have reason to know of the death or injury;

shall immediately stop his vehicle at the scene of the accident or collision. A violation of this subsection is a ~~misdemeanor punishable by a fine or by imprisonment for not more than two years, or both, in the discretion of the court,~~ Class 1 misdemeanor."

Sec. 375. G.S. 20-166(c1) reads as rewritten:

"(c1) In addition to complying with the requirement of (c), the driver as set forth in (c) shall give his name, address, driver's license number and the license plate number of his vehicle to the driver or occupants of any other vehicle involved in the accident or collision or to any person whose property is damaged in the accident or collision. If the damaged property is a parked and unattended vehicle and the name and location of the owner is not known to or readily ascertainable by the driver of the responsible vehicle, the said driver shall furnish the information required by this subsection to the nearest available peace officer, or, in the alternative, and provided he thereafter within 48 hours fully complies with G.S. 20- 166.1(c), shall immediately place a paper-writing containing said information in a conspicuous place upon or in the damaged vehicle. If the damaged property is a guardrail, utility pole, or other fixed object owned by the Department of Transportation, a public utility, or other public service

corporation to which report cannot readily be made at the scene, it shall be sufficient if the responsible driver shall furnish the information required to the nearest peace officer or make written report thereof containing said information by U.S. certified mail, return receipt requested, to the North Carolina Division of Motor Vehicles within five days following said collision. A violation of this subsection is a ~~misdemeanor punishable by a fine or by imprisonment for not more than two years, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----REPORTS AND INVESTIGATIONS REQUIRED IN EVENT OF COLLISION

Sec. 376. G.S. 20-166.1(c) reads as rewritten:

"(c) Notwithstanding any other provisions of this section, the driver of any motor vehicle which collides with another motor vehicle left parked or unattended on any street or highway of this State shall within 48 hours report the collision to the owner of such parked or unattended motor vehicle. Such report shall include the time, date and place of the collision, the driver's name, address, driver's license number and the registration number of the vehicle being operated by the driver at the time of the collision, and such report may be oral or in writing. Such written report must be transmitted to the current address of the owner of the parked or unattended vehicle by United States certified mail, return receipt requested, and a copy of such report shall be transmitted to the North Carolina Division of Motor Vehicles.

No report, oral or written, made pursuant to this Article shall be competent in any civil action except to establish identity of the person operating the moving vehicle at the time of the collision referred to therein.

Any person who violates this subsection is guilty of a ~~misdemeanor and shall be punishable by fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

Sec. 377. G.S. 20-166.1(k) reads as rewritten:

"(k) A violation of any provision of this section is a ~~misdemeanor punishable as provided in G.S. 20-176.~~ Class 2 misdemeanor."

-----TRANSPORTATION OF SPENT NUCLEAR FUEL

Sec. 378. G.S. 20-167.1(d) reads as rewritten:

"(d) Any person, firm or corporation violating any provision of this section is guilty of a Class 3 misdemeanor and shall be punished only by a fine of not less than five hundred dollars ($500.00), and each unauthorized shipment shall constitute a separate offense."

-----PENALTY FOR MISDEMEANOR OR INFRACTION

Sec. 379. G.S. 20-176(c) reads as rewritten:

"(c) Unless a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained in this Article ~~may be imprisoned for not more than 60 days or fined not more than one hundred dollars ($100.00), or both such fine and imprisonment.~~ is guilty of a Class 2 misdemeanor. A punishment is specific for purposes of this subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a judge can impose."

-----REFUSAL OF OPERATOR TO COOPERATE IN WEIGHING

Sec. 380. G.S. 20-183.11 reads as rewritten:

"*§ 20-183.11. Refusal of operator to cooperate in weighing vehicle; removal of excess portion of load.*

When a permanent weighing station is established under the provisions of this section, it shall constitute a Class 2 misdemeanor for the operator of any vehicle to refuse to permit his vehicle to be weighed at such station or to refuse to drive his vehicle upon the scales so that the same may be weighed. Any vehicle and its load found to be above the weight authorized in Chapter 20 of the General Statutes shall have immediately removed by the operator such portion of its load as may be necessary to decrease the gross weight of the vehicle to the maximum therefor specified in Chapter 20 of the General Statutes: Provided, that the Division may allow any vehicle transporting refrigerated or iced perishable foods for human consumption to proceed without removing all or a portion of its load when the owner or operator has paid the taxes and penalties due because of the overload or has made satisfactory arrangements with the Commissioner of Motor Vehicles to pay said taxes and penalties. The material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of the owner or operator of such vehicle."

-----CARRIERS OF MIGRATORY FARM WORKERS

Sec. 381. G.S. 20-215.4 reads as rewritten:

"*§ 20-215.4. Violation of regulations a misdemeanor.*

The violation of any rule or regulation promulgated by the Division hereunder by any person, firm or corporation shall be a ~~misdemeanor, punishable by a fine of not more than fifty dollars ($50.00) or by imprisonment for a period of not more than 30 days, or by both such fine and imprisonment.~~ Class 3 misdemeanor."

-----STOP FOR PROPERLY MARKED AND DESIGNATED SCHOOL BUSES

Sec. 382. G.S. 20-217(e) reads as rewritten:

"(e) Any person violating the provisions of this section shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not to exceed two hundred dollars ($200.00), or imprisoned not to exceed 90 days, or both.~~ Class 2 misdemeanor."

-----REMOVAL OF UNAUTHORIZED VEHICLES FROM PRIVATE LOTS

Sec. 383. G.S. 20-219.2(b) reads as rewritten:

"(b) Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor and upon conviction shall be only fined not more than ten dollars ($10.00) in the discretion of the court."

-----ACCIDENT REPORTS

Sec. 384. G.S. 20-279.31 reads as rewritten:

"*§ 20-279.31. Other violations; penalties.*

(a) Failure to report an accident as required in G.S. 20-279.4 ~~shall be punished~~ is a Class 3 misdemeanor punishable only by a fine not in excess of twenty-five dollars ($25.00) and in the event of injury or damage to the person or property of another in such accident, the Commissioner shall suspend the license of the person failing to make such report, or the nonresident's operating privilege of such person, until such report has been filed and for such further period not to exceed 30 days as the Commissioner may fix.

(b) Any person who gives information required in a report or otherwise as provided for in G.S. 20-279.4 knowing or having reason to believe that such information is false, or who shall forge or, without authority, sign any evidence of proof of financial responsibility, or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority, ~~shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one year, or both.~~ is guilty of a Class 1 misdemeanor.

(c) Any person willfully failing to return license as required in G.S. 20-279.30 ~~shall be fined not more than five hundred dollars ($500.00) or imprisoned not to exceed 30 days, or both.~~ is guilty of a Class 3 misdemeanor.

(c1) Any person who makes a false affidavit or knowingly swears or affirms falsely to any matter under G.S. 20-279.5, 20-279.6, or 20-279.7 is guilty of perjury and shall be punished as provided in G.S. 14-209.

(d) Any person who shall violate any provision of this Article for which no penalty is otherwise provided ~~shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than 90 days, or both.~~ is guilty of a Class 2 misdemeanor."

-----MANDATORY LIABILITY INSURANCE

Sec. 385. G.S. 20-284 reads as rewritten:

"*§ 20-284. Violation a misdemeanor.*

Any person, firm or corporation violating the provisions of this Article shall be guilty of a ~~misdemeanor and shall be punished by fine~~

~~or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----MOTOR VEHICLE MANUFACTURERS LICENSING

Sec. 386. G.S. 20-308 reads as rewritten:

"*§ 20-308. Penalties.*

Any person violating any of the provisions of this Article shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----SURRENDER OF PLATES AFTER REVOCATION

Sec. 387. G.S. 20-312 reads as rewritten:

"*§ 20-312. Failure of owner to deliver certificate of registration and plates after revocation; notice of revocation.*

Failure of an owner to deliver the certificate of registration and registration plates issued by the Division of Motor Vehicles, after revocation thereof as provided in this Article, shall constitute a Class 1 misdemeanor. Notice of revocation of the certificate of registration or registration plates shall be issued in accordance with G.S. 20-48."

-----FINANCIAL RESPONSIBILITY

Sec. 388. G.S. 20-313(a) reads as rewritten:

"(a) On or after July 1, 1963, any owner of a motor vehicle registered or required to be registered in this State who shall operate or permit such motor vehicle to be operated in this State without having in full force and effect the financial responsibility required by this Article shall be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----MAKING FALSE CERTIFICATION

Sec. 389. G.S. 20-313.1 reads as rewritten:

"*§ 20-313.1. Making false certification or giving false information a misdemeanor.*

(a) Any owner of a motor vehicle registered or required to be registered in this State who shall make a false certification concerning his financial responsibility for the operation of such motor vehicle shall be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor.

(b) Any person, firm, or corporation giving false information to the Division concerning another's financial responsibility for the operation of a motor vehicle registered or required to be registered in this State, knowing or having reason to believe that such information is false, shall be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----DRIVER TRAINING SCHOOLS

Sec. 390. G.S. 20-327 reads as rewritten:

"*§ 20-327. Penalties for violating Article or regulations.*

Violation of any provision of this Article or any regulation promulgated pursuant hereto, shall constitute a ~~misdemeanor, and any person, firm, or corporation upon conviction thereof shall be punished by a fine of not more than one hundred dollars ($100.00) or by imprisonment for not more than 30 days, or by both such fine and imprisonment.~~ Class 3 misdemeanor."

-----VEHICLE MILEAGE ACT

Sec. 391. G.S. 20-350 reads as rewritten:

"§ *20-350. Criminal offense.*

Any person, firm or corporation violating G.S. 20-343 shall be guilty of a Class J felony. A violation of any remaining provision of this Article shall be a Class 1 misdemeanor."

-----HOUSEMOVING

Sec. 392. G.S. 20-371(a) reads as rewritten:

"(a) Any person violating the provisions of this Article or the regulations of the Department governing housemoving shall be guilty of a Class 3 misdemeanor ~~and, upon conviction, shall be punished by~~ which may include a fine of not more than five hundred dollars ($500.00)~~, or imprisonment for not more than 30 days or both.~~"

-----MOTOR CARRIERS

Sec. 393. G.S. 20-390 reads as rewritten:

"§ *20-390. Refusal to permit Division to inspect records made misdemeanor.*

Any motor carrier, its officers or agents in charge thereof, that fails or refuses upon the written demand of the Division to permit its authorized representatives or employees to examine and inspect its books, records, accounts and documents, or its plant, property, or facilities, as provided for by law, shall be guilty of a Class 3 misdemeanor. Each day of such failure or refusal shall constitute a separate offense and each such offense shall be punishable only by a fine of not less than five hundred dollars ($500.00) and not more than five thousand dollars ($5,000)."

-----WILLFUL INJURY TO PROPERTY OF MOTOR CARRIER

Sec. 394. G.S. 20-395 reads as rewritten:

"§ *20-395. Willful injury to property of motor carrier a misdemeanor.*

If any person shall willfully do or cause to be done any act or acts whatever whereby any building, construction or work of any motor carrier, or any engine, machine or structure of any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, he shall be guilty of a Class 1 misdemeanor."

-----UNLAWFUL MOTOR CARRIER OPERATIONS

Sec. 395. G.S. 20-396 reads as rewritten:

"§ *20-396. Unlawful motor carrier operations.*

(a) Any person, whether carrier, shipper, consignee, or any officer, employee, agent, or representative thereof, who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully seek to evade or defeat regulations as in this Article provided for motor carriers, shall be deemed guilty of a Class 3 misdemeanor and ~~upon conviction thereof be fined~~ only punished by a fine of not more than five hundred dollars ($500.00) for the first offense and not more than two thousand dollars ($2,000) for any subsequent offense.

(b) Any motor carrier, or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Division as required by this Article, or other applicable law, or to make specific and full, true, and correct answer to any question within 30 days from the time it is lawfully required by the Division so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Division or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make true and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this Article to keep the same, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Division with respect thereto, shall be deemed guilty of a Class 3 misdemeanor and ~~upon conviction thereof be subject~~ be punished for each offense ~~to~~ only by a fine of not more than five thousand dollars ($5,000). As used in this subsection the words 'kept' and 'keep' shall be construed to mean made, prepared or compiled as well as retained."

-----MOTOR CARRIERS FURNISHING FALSE INFORMATION

Sec. 396. G.S. 20-397 reads as rewritten:

"*§ 20-397. Furnishing false information to the Division; withholding information from the Division.*

(a) Every person, firm or corporation operating under the jurisdiction of the Division or who is required by law to file reports with the Division who shall knowingly or willfully file or give false information to the Division in any report, reply, response, or other statement or document furnished to the Division shall be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor.

(b) Every person, firm, or corporation operating under the jurisdiction of the Division or who is required by law to file reports

with the Division who shall willfully withhold clearly specified and reasonably obtainable information from the Division in any report, response, reply or statement filed with the Division in the performance of the duties of the Division or who shall fail or refuse to file any report, response, reply or statement required by the Division in the performance of the duties of the Division shall be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----CREDITORS TO FILE VERIFIED CLAIMS WITH CLERK

Sec. 397. G.S. 23-9 reads as rewritten:

"*§ 23-9. Creditors to file verified claims with clerk; false swearing misdemeanor.*

All creditors of the maker of such deed of trust shall, before receiving payment of any amount from the said trustee, file with the clerk of the superior court a statement under oath that the amount claimed by him is justly due, after allowing all credits and offsets, to the best of his knowledge and belief. Any creditor who shall knowingly swear falsely in such statement shall be guilty of a Class 1 misdemeanor."

-----TRUSTEE VIOLATING DUTIES GUILTY OF MISDEMEANOR

Sec. 398. G.S. 23-12 reads as rewritten:

"*§ 23-12. Trustee violating duties guilty of misdemeanor.*

If any trustee in a deed of trust for the benefit of creditors shall fail to file his inventory as required by law, or shall knowingly make any false statement in such inventory, or shall knowingly fail to include any property therein, or shall sell any part of the property described in the deed of trust within ten days unless such property so sold be perishable, or shall fail to file either of the quarterly accounts or the final accounts as required by law, or shall knowingly make any false statement in such quarterly or final account, or shall knowingly fail to include any property, money or disbursement in such quarterly or final account, he shall, in either case, be guilty of a Class 1 misdemeanor."

-----SOLICITING CLAIMS OF CREDITORS

Sec. 399. G.S. 23-47 reads as rewritten:

"*§ 23-47. Violation of preceding section a misdemeanor.*

Any individual, corporation, or firm or other association of persons violating any provision of G.S. 23-46 shall be guilty of a Class 1 misdemeanor."

-----SECOND MORTGAGES

Sec. 400. G.S. 24-17 reads as rewritten:

"*§ 24-17. Misdemeanors.*

A wilful or knowing violation of G.S. 24-12 through G.S. 24-16 is hereby made a ~~misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----INVESTMENT OF FUNDS BY GUARDIAN

Sec. 401. G.S. 34-13 reads as rewritten:

"*§ 34-13. Investment of funds.*

Every guardian shall invest the funds of the estate in any of the following securities:

(1) United States government bonds.

(2) State of North Carolina bonds issued since the year 1872.

(3) By loaning the same upon real estate securities in which the guardian has no interest, such loans not to exceed fifty percent (50%) of the actual appraised or assessed value, whichever may be lower, and said loans when made to be evidenced by a note, or notes, or bond, or bonds, under the seal of the borrower and secured by first mortgage or first deed of trust. Said guardian before making such investment on real estate mortgages shall secure a certificate of title from some reputable attorney certifying that the same is first lien on real estate and also setting forth the tax valuation thereof for the current year: Provided, said guardian may purchase with said funds a home or farm for the sole use of said ward or his dependents upon petition and order of the clerk of superior court, said order to be approved by the resident or presiding judge of the superior court, and provided further that copy of said petition shall be forwarded to said Bureau before consideration thereof by said court. Any guardian may encumber the home or farm so purchased for the entire purchase price or balance thereof to enable the ward to obtain benefits provided in Title 38, U.S. Code, Chapter 37, upon petition to and order of the clerk of superior court of the county of appointment of said guardian and approved by the resident or presiding judge of the superior court. Notice of hearing on such petition, together with copy of the petition, shall be given to the United States Veterans Administration and the Department of Military and Veterans Affairs by mail not less than 15 days prior to the date fixed for the hearing.

(4) Any form of investment allowed by law to the State Treasurer under G.S. 147-69.1.

(5) Repealed by Session Laws 1979, c. 467, s. 22.

It shall be the duty of guardians who shall have funds invested other than as provided for in this section to liquidate same within one year from the passage of this law: Provided, however, that upon the

approval of the judge of the superior court, either residing in or presiding over the courts of the district, the clerk of the superior court may authorize the guardian to extend from time to time, the time for sale or collection of any such investments; that no extension shall be made to cover a period of more than one year from the time the extension is made.

The clerk of the superior court of any county in the State or any guardian who shall violate any of the provisions of this section shall be guilty of a ~~misdemeanor, punishable by fine or imprisonment or both in the discretion of the court.~~ Class 1 misdemeanor."

-----WILLFUL DESTRUCTION BY TENANT MISDEMEANOR

Sec. 402. G.S. 42-11 reads as rewritten:

"*§ 42-11. Willful destruction by tenant misdemeanor.*

If any tenant shall, during his term or after its expiration, willfully and unlawfully demolish, destroy, deface, injure or damage any tenement house, uninhabited house or other outhouse, belonging to his landlord or upon his premises by removing parts thereof or by burning, or in any other manner, or shall unlawfully and willfully burn, destroy, pull down, injure or remove any fence, wall or other inclosure or any part thereof, built or standing upon the premises of such landlord, or shall willfully and unlawfully cut down or destroy any timber, fruit, shade or ornamental tree belonging to said landlord, he shall be guilty of a Class 1 misdemeanor."

-----WRONGFUL SURRENDER TO OTHER THAN LANDLORD

Sec. 403. G.S. 42-13 reads as rewritten:

"*§ 42-13. Wrongful surrender to other than landlord misdemeanor.*

Any tenant or lessee of lands who shall willfully, wrongfully and with intent to defraud the landlord or lessor, give up the possession of the rented or leased premises to any person other than his landlord or lessor, shall be guilty of a Class 1 misdemeanor."

-----UNLAWFUL SEIZURE BY LANDLORD OR REMOVAL BY TENANT

Sec. 404. G.S. 42-22 reads as rewritten:

"*§ 42-22. Unlawful seizure by landlord or removal by tenant misdemeanor.*

If any landlord shall unlawfully, willfully, knowingly and without process of law, and unjustly seize the crop of his tenant when there is nothing due him, he shall be guilty of a Class 1 misdemeanor. If any lessee or cropper, or the assigns of either, or any other person, shall remove a crop, or any part thereof, from land without the consent of the lessor or his assigns, and without giving him or his agent five days' notice of such intended removal, and before satisfying all the liens held by the lessor or his assigns, on said crop, he shall be guilty of a Class 1 misdemeanor."

-----TENANT TO ACCOUNT FOR SALES OF TOBACCO

Sec. 405. G.S. 42-22.1 reads as rewritten:

"*§ 42-22.1. Failure of tenant to account for sales under tobacco marketing cards.*

Any tenant or share cropper having possession of a tobacco marketing card issued by any agency of the State or federal government who sells tobacco authorized to be sold thereby and fails to account to his landlord, to the extent of the net proceeds of such sale or sales, for all liens, rents, advances, or other claims held by his landlord against the tobacco or the proceeds of the sale of such tobacco, shall be guilty of a ~~misdemeanor and, upon conviction, shall be punished by a fine or imprisonment in the discretion of the court.~~ Class 1 misdemeanor."

-----FALSE STATEMENT/STATUTORY LIENS

Sec. 406. G.S. 44A-24 reads as rewritten:

"*§ 44A-24. False statement a misdemeanor.*

If any contractor or other person receiving payment from an obligor for an improvement to real property or from a purchaser for a conveyance of real property with improvements shall knowingly furnish to such obligor, purchaser, or to a lender who obtains a security interest in said real property, or to a title insurance company insuring title to such real property, a false written statement of the sums due or claimed to be due for labor or material furnished at the site of improvements to such real property, then such contractor, subcontractor or other person shall be guilty of a ~~misdemeanor and upon conviction shall be punished by a fine not exceeding one thousand dollars ($1,000) or by imprisonment not to exceed two years or by both such fine and imprisonment in the discretion of the court.~~ Class 1 misdemeanor. Upon conviction and in the event the court shall grant any defendant a suspended sentence, the court may in its discretion include as a condition of such suspension a provision that the defendant shall reimburse the party who suffered loss on such conditions as the court shall determine are proper.

The elements of the offense herein stated are the furnishing of the false written statement with knowledge that it is false and the subsequent or simultaneous receipt of payment from an obligor or purchaser, and in any prosecution hereunder it shall not be necessary for the State to prove that the obligor, purchaser, lender or title insurance company relied upon the false statement or that any person was injured thereby."

-----PAYMENT AND PERFORMANCE BONDS REQUIRED

Sec. 407. G.S. 44A-32 reads as rewritten:

"*§ 44A-32. Designation of official; violation a misdemeanor.*

Each contracting body shall designate an official thereof to require the bonds described by this Article. If the official so designated shall fail to require said bond, he shall be guilty of a Class 1 misdemeanor."

-----RECORDING OF PLATS AND MAPS

Sec. 408. G.S. 47-32.2 reads as rewritten:

"*§ 47-32.2. Violation of §47-30 or 47-32 a misdemeanor.*

Any person, firm or corporation willfully violating the provisions of G.S. 47-30 or G.S. 47-32 shall be guilty of a Class 3 misdemeanor and upon conviction shall be subject only to a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00).

The provisions of this section shall not apply to the following counties: Alexander, Alleghany, Ashe, Beaufort, Camden, Clay, Franklin, Granville, Greene, Harnett, Hertford, Hoke, Hyde, Jackson, Jones, Lee, Lincoln, Madison, Martin, Northampton, Pamlico, Pasquotank, Pender, Person, Pitt, Richmond, Robeson, Rockingham, Sampson, Scotland, Surry, Swain, Vance, Warren, Washington, Watauga and Yadkin."

-----FORGERY OR ALTERATION OF DISCHARGE OR CERTIFICATE

Sec. 409. G.S. 47-112 reads as rewritten:

"*§ 47-112. Forgery or alteration of discharge or certificate; punishment.*

Any person who shall forge, or in any manner alter any discharge or certificate of lost discharge issued by the government of the United States, and offer the same for registration or secure the registration of the same under the provisions of this Article shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----WHAT MINOR CHILDREN MAY BE ADOPTED

Sec. 410. G.S. 48-3(b) reads as rewritten:

"(b) No less than 72 hours before any child less than 12 years old may be placed with any person in anticipation of an adoption, the director of social services of the county in which the parent or guardian resides or the county in which the child was born or will be born shall be notified in writing of the proposed placement. The written notification shall be sent by the prospective adoptive parents and shall contain:

(1) The names and addresses of each parent or guardian of the child and of each person with whom the child is to be placed for adoption,

(2) The signatures of a parent or guardian of the child and of each person with whom the child is to be placed for adoption,

(3) The birth date or expected birth date and county of birth or expected county of birth of the child, and

(4) The intention of the parties as to adoption of the child.

The notification may also contain any request for counseling that any of the parties to the placement wish to make.

The requirement of notification does not apply to placements with a child's relative listed in G.S. 48-21.

Any person who willfully and knowingly violates this subsection shall be guilty of a Class 1 misdemeanor."

-----RECORD AND INFORMATION NOT TO BE MADE PUBLIC

Sec. 411. G.S. 48-25(b) reads as rewritten:

"(b) With the exception of the information contained in the final order, it shall be a Class 1 misdemeanor for any person having charge of the file or the record to disclose, except as provided in subsection (d) of this section, G.S. 48-26, and as may be required under the provisions of G.S. 48-27, any information concerning the contents of any papers in the proceeding."

-----COMPENSATION FOR PLACING OF CHILD

Sec. 412. G.S. 48-37 reads as rewritten:

"§ *48-37. Compensation for placing or arranging placement of child for adoption prohibited.*

No person, agency, association, corporation, institution, society or other organization, except a licensed child-placing agency as defined by G.S. 48-2(4), or a county department of social services, shall offer or give, charge or accept any fee, compensation, consideration or thing of value for receiving or placing, arranging the placement of, or assisting in placing or arranging the placement of, any child for adoption. Provided, that the adoptive parents may pay the reasonable and actual medical expenses incurred by the biological mother incident to the birth of the child, and provided that in the petition for adoption the adoptive parents must disclose the amount of these payments and must represent that there were no gifts or payments of, or promises to give or pay, any other fee, compensation, consideration, or thing of value such as is prohibited by this section. The act of preparing and filing the adoption proceeding before the court shall not be construed as receiving or placing, arranging the placement of, or assisting in placing or arranging the placement of, any child for adoption. Any person who violates any provision of this section shall be guilty of a ~~misdemeanor, and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.~~ Class 1 misdemeanor. Any person who is convicted of or pleads guilty to a second or subsequent violation of this section shall be guilty of a felony and shall be imprisoned for not more than three years or fined

not more than ten thousand dollars ($10,000) or both at the discretion of the court."

-----ADVERTISEMENTS SOLICITING CHILDREN FOR ADOPTION

Sec. 413. G.S. 48-38 reads as rewritten:

"*§ 48-38. Advertisements soliciting children for adoption prohibited.*

No person, agency, association, corporation, society or other organization, except a licensed child-placing agency as defined in G.S. 48-2, a county department of social services, or the Department of Human Resources, shall publish, transmit, broadcast, or otherwise distribute any advertisement of any type whatsoever which solicits the receiving or placing of children for adoption, or which solicits the custody of children. Any person who violates any provision of this section shall be guilty of a ~~misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.~~ Class 1 misdemeanor."

-----NONSUPPORT OF ILLEGITIMATE CHILD BY PARENTS

Sec. 414. G.S. 49-2 reads as rewritten:

"*§ 49-2. Nonsupport of illegitimate child by parents made misdemeanor.*

Any parent who willfully neglects or who refuses to provide adequate support and maintain his or her illegitimate child shall be guilty of a ~~misdemeanor and subject to such penalties as are hereinafter provided.~~ Class 2 misdemeanor. A child within the meaning of this Article shall be any person less than 18 years of age and any person whom either parent might be required under the laws of North Carolina to support and maintain if such child were the legitimate child of such parent."

-----PENALTY FOR SOLEMNIZING WITHOUT LICENSE

Sec. 415. G.S. 51-7 reads as rewritten:

"*§ 51-7. Penalty for solemnizing without license.*

Every minister or officer who marries any couple without a license being first delivered to him, as required by law, or after the expiration of such license, or who fails to return such license to the register of deeds within 10 days after any marriage celebrated by virtue thereof, with the certificate appended thereto duly filled up and signed, shall forfeit and pay two hundred dollars ($200.00) to any person who sues therefor, and he shall also be guilty of a Class 1 misdemeanor."

-----MARRIAGE LICENSE HEALTH EXAM

Sec. 416. G.S. 51-13 reads as rewritten:

"*§ 51-13. Penalty for violation of §§ 51-9 to 51-12.*

Any violation of G.S. 51-9 to 51-12, or any part thereof, by any person charged herein with the responsibility of its enforcement shall be declared a ~~misdemeanor and shall be punishable by a fine of fifty~~

~~dollars ($50.00) or imprisonment for 30 days, or both.~~ Class 3 misdemeanor."

-----OBTAINING MARRIAGE LICENSE BY FALSE REPRESENTATION

Sec. 417. G.S. 51-15 reads as rewritten:

"*§ 51-15. Obtaining license by false representation misdemeanor.*

If any person shall obtain a marriage license by misrepresentation or false pretenses, he shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00), or imprisoned not exceeding 30 days, or both, at the discretion of the court.~~ Class 3 misdemeanor."

-----UNLAWFUL ISSUING OF CERTIFICATE OF DEPOSIT

Sec. 418. G.S. 53-63 reads as rewritten:

"*§ 53-63. Unlawful issuing of certificate of deposit.*

It shall be unlawful for any bank to issue any certificate of deposit or other negotiable instrument of its indebtedness to the holder thereof except for lawful money of the United States, checks, drafts, or bills of exchange which are the actual equivalent of such money; nor shall such moneys, checks, drafts, or bills of exchange be the proceeds of any note given in payment of the purchase price of any stock. Any officer or employee of any bank violating the provisions of this section shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----BANK OFFICIALS ACCEPTING FEES

Sec. 419. G.S. 53-86 reads as rewritten:

"*§ 53-86. Directors, officers, etc., accepting fees, etc.*

No gift, fee, commission, or brokerage charge shall be received, directly or indirectly, by any officer, director, or employee of any bank doing business under this Chapter, on account of any transaction to which the bank is a party. Any officer, director, employee, or agent who shall violate the provisions of this section shall be guilty of a Class 3 misdemeanor, and shall be and thereafter remain ineligible as an officer, director, or employee of any bank doing business under this Chapter. Nothing in this section shall be construed to prevent the payment of necessary and proper fees to any licensed attorney or licensed real estate broker or salesman, who is a director but not an officer or employee of the bank for professional services rendered, and nothing in this section shall be construed to apply to commissions on insurance and surety bond premiums."

-----BANK EXAMINERS DISCLOSING CONFIDENTIAL INFORMATION

Sec. 420. G.S. 53-125 reads as rewritten:

"*§ 53-125. Examiners disclosing confidential information.*

If any bank examiner or other employee of the Commissioner of Banks fails to keep secret the facts and information obtained in the course of an examination of a bank, except when the public duty of such examiner or employee requires him to report upon or take official action regarding the affairs of such bank, he shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than 12 months, or both, in the discretion of the court.~~ Class 1 misdemeanor. Nothing in this section shall prevent the proper exchange of information with the representatives of the banking departments of other states, with the federal reserve bank or national bank examiners, or other authorities, with the creditors of such bank or others with whom a proper exchange of information is wise or necessary, or with the clearinghouse officials and examiners."

-----LOANS OR GRATUITIES FORBIDDEN

Sec. 421. G.S. 53-126 reads as rewritten:

"*§ 53-126. Loans or gratuities forbidden.*

No State bank, or any officer, director or employee thereof shall hereafter make any loan or grant any gratuity to the Commissioner of Banks, any bank examiner or assistant bank examiner of the Commissioner of Banks of North Carolina. Any such officer, director or employee violating this provision shall be guilty of a Class 1 misdemeanor ~~and imprisoned not exceeding one year or fined not more than one thousand dollars ($1,000), or both~~; and they may be fined a further sum equal to the money so loaned or gratuity given. If the Commissioner of Banks, or any bank examiner, or assistant bank examiner of the Commissioner of Banks of North Carolina shall accept a loan or gratuity from any State bank, or from any officer, director or employee thereof, he shall be guilty of a Class 1 misdemeanor ~~and imprisoned not exceeding one year, or fined not more than one thousand dollars ($1,000), or both~~, and may be fined a further sum equal to the money so loaned or gratuity given."

-----USE OF TERMS INDICATING THAT BUSINESS IS BANK

Sec. 422. G.S. 53-127(d) reads as rewritten:

"(d) Penalty. Violation of this section is a Class 3 misdemeanor, punishable only by a fine of up to five hundred dollars ($500.00)."

-----WILLFULLY AND MALICIOUSLY MAKING DEROGATORY REPORTS

Sec. 423. G.S. 53-128 reads as rewritten:

"*§ 53-128. Willfully and maliciously making derogatory reports.*

Any person who shall willfully and maliciously make, circulate, or transmit to another or others any statement, rumor, or suggestion, written, printed, or by word of mouth, which is directly or by inference false and derogatory to the financial condition, or affects the

solvency or financial standing of any bank, or who shall counsel, aid, procure, or induce another to state, transmit, or circulate any such statement or rumor shall be guilty of a Class 1 misdemeanor~~, and upon conviction thereof shall be fined or imprisoned, or both, in the discretion of the court~~."

-----BANKING OFFENSES

Sec. 424. G.S. 53-134 reads as rewritten:

"*§ 53-134. Offenses declared misdemeanors; prosecution; employment of counsel; punishment.*

Any offense against the banking laws of the State of North Carolina which is not elsewhere specifically declared to be a crime, or for which elsewhere a penalty is not specifically provided, is ~~hereby declared to be~~ a Class 1 misdemeanor~~, and shall be punishable at the discretion of the court~~. The Commissioner of Banks is authorized and directed to prosecute all offenses against the banking laws of the State, and to that end is expressly authorized to employ counsel to prosecute in the inferior courts and to aid the district attorney in the superior courts. The Auditor of the State shall, upon the certificate of the Commissioner of Banks, accompanied by an itemized statement of the account, draw his warrant upon the State Treasurer to compensate the counsel so employed, and the State Treasurer shall pay the same out of the funds in the treasury and not otherwise appropriated."

-----NORTH CAROLINA CONSUMER FINANCE ACT

Sec. 425. G.S. 53-166(c) reads as rewritten:

"(c) Penalties; Commissioner to Provide and Testify as to Facts in His Possession. -- Any person not exempt from this Article, or any officer, agent, employee or representative thereof, who fails to comply with or who otherwise violates any of the provisions of this Article, or any regulation of the Banking Commission adopted pursuant to this Article, shall be guilty of a ~~misdemeanor and upon conviction shall be fined not less than five hundred dollars ($500.00) nor more than twenty-five hundred dollars ($2,500) or imprisoned not less than four months nor more than two years, or both, in the discretion of the court.~~ Class 1 misdemeanor. Each such violation shall be considered a separate offense. It shall be the duty of the Commissioner of Banks to provide the district attorney of the court having jurisdiction of any such offense with all facts and evidence in his actual or constructive possession, and to testify as to such facts upon the trial of any person for any such offense."

-----SALE OF CHECKS ACT

Sec. 426. G.S. 53-208 reads as rewritten:

"*§ 53-208. Violation a misdemeanor.*

If any person to whom or to which this Article applies or any agent, subagent or representative of such person violates any of the

provisions of this Article or attempts to sell or issue checks without having first obtained a license from the Commissioner pursuant to the provisions of this Article, or issues any check at a time when the bond or security required by this Article is not in full force and effect, such person or such agent, subagent or representative shall be deemed guilty of a Class 1 misdemeanor, ~~and upon conviction shall be fined or imprisoned within the discretion of the court~~ and each violation shall constitute a separate offense."

-----REGISTRATION REQUIREMENT

Sec. 427. G.S. 53-247(b) reads as rewritten:

"(b) Criminal Penalty. Violation of this section is a Class 2 misdemeanor, ~~punishable by imprisonment up to 60 days,~~ which may include a fine of up to two thousand dollars ($2,000)~~, or both~~."

-----USE OF NAME "CREDIT UNION" EXCLUSIVE

Sec. 428. G.S. 54-109.5 reads as rewritten:

"*§ 54-109.5. Use of name exclusive.*

With the exception of a credit union organized under the provisions of Articles 14A to 14L of this Chapter or of any other credit union act, or an association of credit unions or a recognized chapter thereof, any person, corporation, copartnership or association using a name or title containing the words 'credit union' or any derivation thereof or representing themselves in their advertising or otherwise as conducting business as a credit union shall be guilty of a Class 1 misdemeanor ~~punishable by fine of not more than five hundred dollars ($500.00) or imprisoned not more than one year, or both~~, and may be permanently enjoined from using such words in its name."

-----CREDIT UNION INFORMATION DEEMED CONFIDENTIAL

Sec. 429. G.S. 54-109.105(f) reads as rewritten:

"(f) The willful or knowing violation of the provisions of this Article by any employee of the credit union division shall be a Class 1 misdemeanor."

-----BREACH OF MARKETING CONTRACT OF COOPERATIVE

Sec. 430. G.S. 54-157 reads as rewritten:

"*§ 54-157. Breach of marketing contract of cooperative association; spreading false reports about the finances or management thereof; misdemeanor.*

Any person or persons, or any corporation whose officers or employees knowingly induces or attempts to induce any member or stockholder of an association organized hereunder to breach his marketing contract with the association, or who maliciously and knowingly spreads false reports about the finances or management thereof shall be guilty of a Class 2 misdemeanor and subject only to a fine of not less than one hundred dollars ($100.00), and not more than one thousand dollars ($1,000), for such offense and shall be

liable to the association aggrieved in a civil suit in the penal sum of five hundred dollars ($500.00) for each such offense: Provided, that this section shall not apply to a bona fide creditor of any member or stockholder of such association, or the agents or attorney of any such bona fide creditor, endeavoring to make collection of the indebtedness, or to any communication, written or oral, between a business company or concern and persons with whom it has an existing contractual relationship which communication relates to the performance of that contractual relationship and duties and responsibilities arising therefrom."

-----EXAMINATIONS BY SAVINGS INSTITUTION ADMINISTRATOR; REPORT

Sec. 431. G.S. 54B-56(c) reads as rewritten:

"(c) No association may willfully delay or willfully obstruct an examination in any fashion. Any person failing to comply with this subsection shall be guilty of a Class 1 misdemeanor."

Sec. 432. G.S. 54B-56(d) reads as rewritten:

"(d) No person having in his possession or control any books, accounts or papers of any State association shall refuse to exhibit same to the Administrator or his agents on demand, or shall knowingly or willingly make any false statement in regard to the same. Any person failing to comply with this subsection shall be guilty of a Class 1 misdemeanor."

-----SAVINGS AND LOAN ASSOCIATIONS

Sec. 433. G.S. 54B-66 reads as rewritten:

"*§ 54B-66. Criminal penalties.*

(a) The provisions of this section shall in no event extend to persons who are found to have acted only with gross negligence, simple negligence, recklessness or incompetence.

(b) In addition to any of the other penalties or remedies provided by this Article, the following shall be deemed to be Class 1 misdemeanors ~~and shall be punishable as provided in Chapter 14 of the North Carolina General Statutes~~:

(1) The willful or knowing violation of the provisions of this Article by any employee of the Savings Institutions Division.

(2) The willful or knowing violation of a cease and desist order which has become final in that no further administrative or judicial appeal is available.

(c) In addition to any of the other penalties or remedies provided by this Article, the willful omission, making, or concurrence in making or publishing a written report, exhibit, or entry in a financial statement on the books of the association, which contains a material statement known to be false shall be deemed to be a Class 1 misdemeanor ~~and shall be punishable as provided in Chapter 14 of the~~

~~North Carolina General Statutes~~. For purposes of this section, 'material' shall mean 'so substantial and important as to influence a reasonable and prudent businessman or investor.'

(d) The Administrator is authorized to enforce this section in a court of competent jurisdiction."

-----SAVINGS AND LOAN ASSOCIATIONS

Sec. 434. G.S. 54B-78 reads as rewritten:

"§ *54B-78. Prohibited practices.*

Any person or association who shall engage in any of the following acts or practices shall be guilty of a Class 1 misdemeanor~~, and upon conviction thereof shall be fined or imprisoned, or both, in the discretion of the court~~:

(1) Defamation: Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral, written, or printed statement which is false regarding the financial condition of any association.

(2) False information and advertising: Making, publishing, disseminating, or circulating or causing, directly or indirectly, to be made published, disseminated, circulated, or otherwise placed before the public in any publication, media, notice, pamphlet, letter, poster, or any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the savings and loan business or with respect to any person in the conduct of the savings and loan business which is untrue, deceptive, or misleading."

-----EXAMINATIONS BY ADMINISTRATOR; REPORT

Sec. 435. G.S. 54C-54(c) reads as rewritten:

"(c) No savings bank may willfully delay or willfully obstruct an examination in any fashion. A person failing to comply with this subsection is guilty of a Class 1 misdemeanor."

Sec. 436. G.S. 54C-54(d) reads as rewritten:

"(d) No person who possesses or controls any books, accounts, or papers of any State savings bank shall refuse to exhibit same to the Administrator or the Administrator's agent on demand, or shall knowingly or willingly make any false statement in regard to the same. A person failing to comply with this subsection is guilty of a Class 1 misdemeanor."

-----DEFAMATION AND FALSE/MISLEADING ADVERTISING/ BANKS

Sec. 437. G.S. 54C-64 reads as rewritten:

"§ *54C-64. Prohibited practices.*

A person who engages in any of the following acts or practices is guilty of a Class 1 misdemeanor, and upon conviction thereof shall be fined or imprisoned, or both, in the discretion of the court:

(1) Defamation: Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral, written, or printed statement that is false regarding the financial condition of any savings bank.

(2) False information and advertising: Making, publishing, disseminating, circulating, or otherwise placing before the public in any publication, media, notice, pamphlet, letter, poster, or any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the savings bank business or with respect to any person in the conduct of the savings bank business that is untrue, deceptive, or misleading.

(3) Misleading advertising: Use of a name or designation by a savings bank in advertisements, announcements, or statements concerning the savings bank that does not include the words 'savings bank' and the designation 'SSB' in type that is equally prominent with the other terms in the name or designation of the savings bank."

-----CRIMINAL PENALTIES WITH REGARD TO SAVINGS BANKS

Sec. 438. G.S. 54C-79 reads as rewritten:

"§ *54C-79. Criminal penalties.*

(a) This section shall in no event extend to persons who are found to have acted only with gross negligence, simple negligence, recklessness, or incompetence.

(b) In addition to any of the other penalties or remedies provided by this Article, the following are deemed to be Class 1 misdemeanors ~~and are punishable as provided in Chapter 14 of the General Statutes~~:

(1) The willful or knowing violation of this Article by any employee of the Division.

(2) The willful or knowing violation of a cease and desist order that has become final in that no further administrative or judicial appeal is available.

(c) In addition to any of the other penalties or remedies provided by this Article, the willful omission, making, or concurrence in making or publishing a written report, exhibit, or entry in a financial statement on the books of the association, which contains a material statement known to be false is deemed to be a Class 1 misdemeanor ~~and is punishable as provided in Chapter 14 of the General Statutes.~~ For purposes of this section, 'material' shall mean 'so substantial and

important as to influence a reasonable and prudent businessman or investor.'

(d) The Administrator may enforce this section in a court of competent jurisdiction."

-----PENALTY FOR SIGNING FALSE DOCUMENT

Sec. 439. G.S. 55-1-29(b) reads as rewritten:

"(b) An offense under this section is a Class 1 misdemeanor."

-----CORPORATIONS, OFFICERS/ANSWER INTERROGATORIES

Sec. 440. G.S. 55-1-32(b) reads as rewritten:

"(b) Each officer and director of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this Chapter to answer truthfully and fully interrogatories propounded to him by the Secretary of State in accordance with the provisions of this Chapter shall be guilty of a Class 1 misdemeanor."

-----CORPORATIONS, OFFICERS/ANSWER INTERROGATORIES

Sec. 441. G.S. 55A-80 reads as rewritten:

"*§ 55A-80. Penalties imposed upon corporations, officers and directors for failure to answer interrogatories.*

(a) Each corporation, foreign or domestic, that fails or refuses to answer truthfully and fully within the time prescribed by this Chapter interrogatories propounded by the Secretary of State, in accordance with the provisions of this Chapter, shall be deemed to be guilty of a Class 1 misdemeanor.

(b) Each officer and director of a corporation, domestic or foreign who fails or refuses within the time prescribed by this Chapter to answer truthfully and fully interrogatories propounded to him by the Secretary of State in accordance with the provisions of this Chapter, or who signs any articles, statement, report, application or other document filed with the Secretary of State which is known to such officer or director to be false in any material respect, shall be guilty of a Class 1 misdemeanor."

-----MOTOR VEHICLE SERVICE AGREEMENTS

Sec. 442. G.S. 58-1-25(e) reads as rewritten:

"(e) Every motor vehicle service agreement company shall complete a registration form and file it with the Commissioner as provided in G.S. 58-1-40. The company shall include a nonrefundable registration fee of five hundred dollars ($500.00) with its application. It is a Class 1 misdemeanor ~~offense~~ for any company knowingly to make a fraudulent statement or representation in its registration. The registration shall be renewed annually by payment of a nonrefundable renewal fee of two hundred dollars ($200.00)."

-----HOME APPLIANCE SERVICE AGREEMENT COMPANIES

Sec. 443. G.S. 58-1-30(e) reads as rewritten:

"(e) Every home appliance service agreement company shall complete a registration form and file it with the Commissioner as provided in G.S. 58-1-40. The company shall include a nonrefundable registration fee of five hundred dollars ($500.00) with its application. It is a Class 1 misdemeanor ~~offense~~ for any service agreement company knowingly to make a fraudulent statement or representation in its registration. The registration shall be renewed annually by payment of a nonrefundable renewal fee of two hundred dollars ($200.00)."

-----SERVICE AGREEMENTS

Sec. 444. G.S. 58-1-35(j) reads as rewritten:

"(j) Any person who knowingly offers for sale or sells a service agreement for a company that has failed to comply with the provisions of this section is guilty of a Class 1 misdemeanor. All service agreement companies and individuals selling service agreements are subject to Article 63 of this Chapter and G.S. 75-1 through G.S. 75-19. It is unlawful for any person to operate, maintain, or establish a service agreement company unless the company has a valid registration issued by the Commissioner. Any service agreement company operating in this State without a valid registration is an unauthorized insurer."

-----BOOKS AND PAPERS REQUIRED TO BE EXHIBITED

Sec. 445. G.S. 58-2-200 reads as rewritten:

"*§ 58-2-200. Books and papers required to be exhibited.*

It is the duty of any person having in his possession or control any books, accounts, or papers of any company licensed under Articles 1 through 64 of this Chapter, to exhibit the same to the Commissioner or to any deputy, actuary, accountant, or persons acting with or for the Commissioner. Any person who shall refuse, on demand, to exhibit the books, accounts, or papers, as above provided, or who shall knowingly or willfully make any false statement in regard to the same, shall be subject to suspension or revocation of his license under Articles 1 through 64 of this Chapter; and shall be deemed guilty of a Class 1 misdemeanor. ~~misdemeanor, and upon conviction thereof shall be fined or imprisoned, or both, at the discretion of the court.~~"

-----PUBLICATION OF ASSETS AND LIABILITIES; PENALTY FOR FAILURE

Sec. 446. G.S. 58-3-60 reads as rewritten:

"*§ 58-3-60. Publication of assets and liabilities; penalty for failure.*

When any company publishes its assets, it must in the same connection and with equal conspicuousness publish its liabilities computed on the basis allowed for its annual statements; and any publications purporting to show its capital must exhibit only the amount of such capital as has been actually paid in cash. Any

company or agent thereof who violates this section shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be punished only by a fine of not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000)."

-----CORPORATION MAINTAINING OFFICE IN STATE TO SECURE LICENSE

Sec. 447. G.S. 58-3-85 reads as rewritten:

"*§ 58-3-85. Corporation or association maintaining office in State required to qualify and secure license.*

Any corporation or voluntary association, other than an association of companies, the members of which are licensed in this State, issuing contracts of insurance and maintaining a principal, branch, or other office within this State, whether soliciting business in this State or in foreign states, shall qualify under the insurance laws of this State applicable to the type of insurance written by such corporation or association and secure license from the Commissioner as provided under Articles 1 through 64 of this Chapter on insurance, as amended, and the officers and agents of any such corporation or association maintaining offices within this State and failing to qualify and secure license as herein provided shall be deemed guilty of a Class 1 misdemeanor ~~and upon conviction thereof shall be fined or imprisoned, or both, at the discretion of the court~~."

-----AGENT, ETC., VIOLATING INSURANCE LAW

Sec. 448. G.S. 58-3-130 reads as rewritten:

"*§ 58-3-130. Agent, adjuster, etc., acting without a license or violating insurance law.*

If any person shall assume to act either as principal, agent, broker, limited representative, adjuster or motor vehicle damage appraiser without license as is required by law or, pretending to be a principal, agent, broker, limited representative, adjuster or licensed motor vehicle damage appraiser, shall solicit, examine or inspect any risk, or shall examine into, adjust, or aid in adjusting any loss, investigate or advise relative to the nature and amount of damages to motor vehicles or the amount necessary to effect repairs thereto, or shall receive, collect, or transmit any premium of insurance, or shall do any other act in the soliciting, making or executing any contract of insurance of any kind otherwise than the law permits, or as principal or agent shall violate any provision of law contained in Articles 1 through 64 of this Chapter, the punishment for which is not elsewhere provided for, he shall be deemed guilty of a Class 1 misdemeanor~~, and on conviction shall pay a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or be imprisoned for not less than one nor more than two years, or both, at the discretion of the court~~."

-----COMPANY CONTROLLED BY ALIEN GOVERNMENT PROHIBITED

Sec. 449. G.S. 58-16-20(c) reads as rewritten:

"(c) Any insurance company or other insurance entity which is financially owned or financially controlled by any alien or foreign government outside the continental limits of the United States or the territories of the United States, or any representative or agent of any such company or entity which violates the provisions of this section, shall be guilty of a Class 3 misdemeanor ~~and, upon conviction, shall be fined in the discretion of the court~~."

-----SURPLUS LINES LICENSEE

Sec. 450. G.S. 58-21-105(a) reads as rewritten:

"(a) Any surplus lines licensee who in this State represents or aids a nonadmitted insurer in violation of this Article shall be guilty of a Class 1 misdemeanor ~~and subject to imprisonment or a fine, or both~~."

-----FALSE STATEMENT IN APPLICATION FOR MEMBERSHIP IN FRATERNAL BENEFIT SOCIETY

Sec. 451. G.S. 58-24-180 reads as rewritten:

"*§ 58-24-180. Penalties.*

(a) Any person, officer, member, or examining physician of any society authorized to do business under this Article who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any society transacting business under this Article, shall be guilty of a Class 1 misdemeanor~~, and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned for not less than 30 days nor more than one year, or both, in the discretion of the court~~.

(b) Any person who shall solicit membership for, or in any manner assist in procuring membership in any fraternal benefit society not licensed to do business in this State, or who shall solicit membership for, or in any manner assist in procuring membership in any such society not authorized as herein provided to do business as herein defined in this State, shall be guilty of a Class 3 misdemeanor and upon conviction thereof shall be punished only by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000).

(c) Any society, or any officer, agent, or employee thereof, neglecting or refusing to comply with, or violating, any of the provisions of this Article, the penalty for which neglect, refusal, or violation is not specified in this section, shall be guilty of a Class 3 misdemeanor, and upon conviction shall be punished only by a fine not to exceed five thousand dollars ($5,000).

(d) Any person violating the provisions of G.S. 58-24-65 shall be guilty of a felony, and upon conviction shall be liable to a fine of not more than fifteen thousand dollars ($15,000), or to imprisonment for not more than five years, or to both fine and imprisonment.

(e) Any person who willfully makes any false statement under oath in any verified report or declaration that is required by law from fraternal benefit societies, is guilty of perjury under G.S. 14-209."

-----UNAUTHORIZED WEARING OF BADGES, ETC.

Sec. 452. G.S. 58-25-70 reads as rewritten:

"*§ 58-25-70. Unauthorized wearing of badges, etc.*

Any person who fraudulently and willfully wears the badge or button of any fraternal organization or society, either in the identical form or in such near resemblance thereto as to be a colorable imitation thereof, or who fraudulently and willfully uses the name of any such order, society or organization, the titles of its officers, or its insignia, ritual, or ceremonies, unless entitled to wear or use the same under the constitution and bylaws, rules and regulations of such fraternal organization, society, or order, shall be deemed guilty of a Class 3 misdemeanor~~, and shall upon conviction, be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than 30 days, in the discretion of the court~~."

-----PROHIBITION AGAINST TITLE INSURANCE KICKBACKS

Sec. 453. G.S. 58-27-5(b) reads as rewritten:

"(b) Any person or entity violating the provisions of Articles 1 through 64 of this Chapter shall be guilty of a Class 2 misdemeanor ~~and subject to~~ which may include a fine of not more than five thousand dollars ($5,000)~~, or imprisonment for not more than six months, or both, in the discretion of the court~~."

-----UNIFORM UNAUTHORIZED INSURERS ACT

Sec. 454. G.S. 58-28-45(h) reads as rewritten:

"(h) Any person, corporation, association or partnership violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor and shall only be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000)."

-----DUTY TO REPORT INSURER IMPAIRMENT; VIOLATIONS; PENALTIES

Sec. 455. G.S. 58-30-12(b) reads as rewritten:

"(b) Whenever an insurer is impaired, its chief executive officer shall, as soon as is reasonably possible, notify the Commissioner in writing of the impairment and shall at the same time notify in writing all of the members of the board of directors or trustees of the insurer, if the chief executive officer knows or has reason to know of the impairment. An officer, director, or trustee of an insurer shall notify the chief executive officer of the impairment of the insurer if the

officer, director, or trustee knows or has reason to know that the insurer is impaired. Any person who knowingly violates this subsection shall, upon conviction, be guilty of a ~~misdemeanor and fined not more than fifty thousand dollars ($50,000) or imprisoned for not more than two years, or both.~~ Class 1 misdemeanor."

-----SELECTION OF PAYROLL DEDUCTION INSURANCE PRODUCTS BY STATE EMPLOYEES

Sec. 456. G.S. 58-31-60(d) reads as rewritten:

"(d) Criminal Penalty. -- It shall be a Class 3 misdemeanor ~~punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than 30 days, or both~~ for any State employee, who has supervisory authority over any member of the Employee Insurance Committee, to attempt to influence the autonomy of any Employee Insurance Committee either in the appointment of members to such Committee or in the operation of such Committee; or for anyone to open a sealed insurance product proposal or disclose or exhibit the contents of a sealed insurance product proposal, prior to the public opening of the proposal. The Commissioner of Insurance shall have the authority to investigate complaints alleging acts subject to the criminal penalty and shall report his findings to the Attorney General of North Carolina."

-----AGENTS PERSONALLY LIABLE; REPRESENTING UNLICENSED COMPANY PROHIBITED; PENALTY

Sec. 457. G.S. 58-33-95 reads as rewritten:

"§ *58-33-95. Agents personally liable; representing unlicensed company prohibited; penalty.*

Any person representing an insurer is personally liable on all contracts of insurance unlawfully made by or through him, directly or indirectly, for any company not authorized to do business in the State. A person or citizen of the State who fills up or signs any open policy, certificate, blank or coupon of, or furnished by, an unlicensed company, agent, broker or limited representative, the effect of which is to bind any insurance in an unlicensed company on property in this State, is the representative of such company, and personally liable for all licenses and taxes due on account of such transaction. If any person shall unlawfully solicit, negotiate for, collect or transmit a premium for a contract of insurance or act in any way in the negotiation or transaction of any unlawful insurance with an insurance company not licensed to do an insurance business in North Carolina, he shall be guilty of a ~~misdemeanor and upon conviction shall pay a fine of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) or be imprisoned for not less than one nor more than two years, or both, at the discretion of the court.~~ Class 1 misdemeanor."

-----PAYMENT OF PREMIUM TO AGENT VALID; OBTAINING BY FRAUD A CRIME

Sec. 458. G.S. 58-33-100 reads as rewritten:

"*§ 58-33-100. Payment of premium to agent valid; obtaining by fraud a crime.*

Any agent, broker or limited representative who acts for a person other than himself negotiating a contract of insurance is, for the purpose of receiving the premium therefor, the company's agent, whatever conditions or stipulations may be contained in the policy or contract. Such agent, broker or limited representative knowingly procuring by fraudulent representations payment, or the obligation for the payment, of a premium of insurance, shall be guilty of a ~~misdemeanor and upon conviction shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or by imprisonment for not more than one year, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----FALSE STATEMENTS IN APPLICATIONS FOR INSURANCE

Sec. 459. G.S. 58-33-105 reads as rewritten:

"*§ 58-33-105. False statements in applications for insurance.*

If any agent, examining physician, applicant, or other person shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance, or shall make any such statement for the purpose of obtaining any fee, commission, money or benefit from any company engaged in the business of insurance in this State, he shall be guilty of a ~~misdemeanor, and upon conviction shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or by imprisonment for not less than 30 days nor more than one year, or both, in the discretion of the court.~~ Class 1 misdemeanor. This section shall also apply to contracts and certificates issued under Articles 65 through 67 of this Chapter."

-----AGENTS SIGNING CERTAIN BLANK POLICIES

Sec. 460. G.S. 58-33-110 reads as rewritten:

"*§ 58-33-110. Agents signing certain blank policies.*

Any agent or limited representative who signs any blank contract or policy of insurance is guilty of a Class 3 misdemeanor and, upon conviction, shall be punished only by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000); provided, however, that transportation ticket policies of accident insurance and baggage insurance policies may be countersigned in blank for issuance only through coin-operated machines, subject to regulations prescribed by the Commissioner."

-----ADJUSTER ACTING FOR UNAUTHORIZED COMPANY

Sec. 461. G.S. 58-33-115 reads as rewritten:

"§ 58-33-115. Adjuster acting for unauthorized company.

If any person shall act as adjuster on a contract made otherwise than as authorized by the laws of this State, or by any insurance company or other person not regularly licensed to do business in this State, or shall adjust or aid in the adjustment, either directly or indirectly, of a claim arising under a contract of insurance not authorized by the laws of the State, he shall be deemed guilty of a ~~misdemeanor and shall, upon conviction, be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned not less than six months nor more than two years, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----ACTING WITHOUT A LICENSE OR VIOLATING INSURANCE LAW

Sec. 462. G.S. 58-33-120 reads as rewritten:

"§ 58-33-120. Agent, adjuster, etc., acting without a license or violating insurance law.

If any person shall assume to act either as principal, agent, broker, limited representative, adjuster or motor vehicle damage appraiser without license as is required by law or pretending to be a principal, agent, broker, limited representative, adjuster or licensed motor vehicle damage appraiser, shall solicit, examine or inspect any risk, or shall examine into, adjust, or aid in adjusting any loss, investigate or advise relative to the nature and amount of damages to motor vehicles or the amount necessary to effect repairs thereto, or shall receive, collect, or transmit any premium of insurance, or shall do any other act in the soliciting, making or executing any contract of insurance of any kind otherwise than the law permits, or as principal or agent shall violate any provision of law contained in Articles 1 through 64 of this Chapter, the punishment for which is not elsewhere provided for, he shall be deemed guilty of a ~~misdemeanor, and on conviction shall pay a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or be imprisoned for not less than one nor more than two years, or both, at the discretion of the court.~~ Class 1 misdemeanor."

-----REFUSING TO EXHIBIT RECORDS; MAKING FALSE STATEMENTS

Sec. 463. G.S. 58-35-30(b) reads as rewritten:

"(b) Any person who shall refuse, on demand, to exhibit to the Commissioner or to any deputy, or person acting with or for the Commissioner, the books, accounts or records as above provided, or who shall knowingly or willfully make any false statement in regard to the same shall be deemed guilty of a ~~misdemeanor, and upon conviction thereof shall be fined or imprisoned, or both, at the discretion of the court.~~ Class 1 misdemeanor."

-----ENGAGE IN THE BUSINESS OF INSURANCE PREMIUM FINANCING WITHOUT FIRST RECEIVING A LICENSE

Sec. 464. G.S. 58-35-90 reads as rewritten:

"*§ 58-35-90. Violations; penalties.*

Any person who shall engage in the business referred to in this Article without first receiving a license, or who shall fail to secure a renewal of his license upon the expiration of the license year, or shall engage in the business herein referred to after the license has been suspended or revoked as herein provided, or who shall fail or refuse to furnish the information required of the Commissioner, or who shall willfully and knowingly enter false information on an insurance premium finance agreement, or who shall fail to observe the rules and regulations made by the Commissioner pursuant to this Article, shall be deemed guilty of a ~~misdemeanor and upon conviction shall pay a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or be imprisoned, or both, at the discretion of the court.~~ Class 1 misdemeanor."

-----OBTAINING INFORMATION UNDER FALSE PRETENSES

Sec. 465. G.S. 58-39-115 reads as rewritten:

"*§ 58-39-115. Obtaining information under false pretenses.*

Any person who knowingly and willfully obtains information about an individual from an insurance institution, agent, or insurance-support organization under false pretenses shall, upon conviction, be guilty of a ~~misdemeanor and be fined not more than ten thousand dollars ($10,000) or imprisoned for not more than one year, or both.~~ Class 1 misdemeanor."

-----PUNISHMENT FOR ISSUING FIRE POLICIES CONTRARY TO LAW

Sec. 466. G.S. 58-43-35 reads as rewritten:

"*§ 58-43-35. Punishment for issuing fire policies contrary to law.*

Any insurance company or agent who makes, issues, or delivers a policy of fire insurance in willful violation of the provisions of Articles 1 through 64 of this Chapter which prohibit a domestic insurance company from issuing policies before obtaining certificate and authority from the Commissioner of Insurance; or which prohibit the issuing of a fire insurance policy for more than the fair value of the property or for a longer term than seven years; or which prohibit stipulations in insurance contracts restricting the jurisdiction of courts, or limiting the time within which an action may be brought to less than one year after the cause of action accrues or to less than six months after a nonsuit by the plaintiff, shall be guilty of a Class 3 misdemeanor and shall, upon conviction, be punished only by a fine of not less than one thousand dollars ($1,000) nor more than five

thousand dollars ($5,000); but the policy shall be binding upon the company issuing it."

----ISSUANCE ANY PERSON IN THIS STATE ANY POLICY IN WILLFUL VIOLATION OF INSURANCE REGULATIONS

Sec. 467. G.S. 58-50-70 reads as rewritten:

"*§ 58-50-70. Punishment for violation.*

Any company, association, society, or other insurer or any officer or agent thereof, which or who issues or delivers to any person in this State any policy in willful violation of Articles 50 through 55 of this Chapter, shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be punished only by a fine of not more than five thousand dollars ($5,000) for each offense; and the Commissioner may revoke the license of any company, corporation, association, society, or other insurer of another state or country, or of the agent thereof, which or who willfully violates any provision of Articles 50 through 55 of this Chapter."

-----VIOLATION OF AN ORDER OF THE INSURANCE COMMISSIONER

Sec. 468. G.S. 58-57-80 reads as rewritten:

"*§ 58-57-80. Penalties.*

In addition to any other penalty provided by law, any person, firm or corporation which willfully violates an order of the Commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of North Carolina a sum not to exceed one thousand dollars ($1,000) which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed five thousand dollars ($5,000). The Commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such willful violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in G.S. 58-57-75. Any creditor who requires credit life insurance or credit accident and health insurance, or both, in excess of the amounts set forth in G.S. 58-57-15 or who violates the provisions of G.S. 58-57-65 shall be guilty of a Class 3 misdemeanor, the penalty for which shall only be a fine of two thousand dollars ($2,000) for each such occurrence or violation."

-----FINANCIAL MONITORING CONTINUING CARE FACILITIES

Sec. 469. G.S. 58-64-75 reads as rewritten:

"*§ 58-64-75. Criminal penalties.*

Any person who willfully and knowingly violates any provision of this Article is guilty of a ~~misdemeanor and shall, upon conviction, be~~

~~fined not more than ten thousand dollars ($10,000) or imprisoned not more than one year, or both.~~ Class 1 misdemeanor. The Commissioner may refer such evidence as is available concerning violation of the Article or of any rule or order hereunder to the Attorney General or a district attorney who may, with or without such reference institute the appropriate criminal proceedings under this Article. Nothing in this Article limits the power of the State to punish any person for any conduct that constitutes a crime under any other statute."

-----HEALTH MAINTENANCE ORGANIZATION ACT

Sec. 470. G.S. 58-67-165(b) reads as rewritten:

"(b) Any person who violates this Article shall be guilty of a ~~misdemeanor and on conviction may be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment for a period not exceeding two years or both, at the discretion of the court.~~ Class 1 misdemeanor."

-----MOTOR CLUBS AND ASSOCIATIONS

Sec. 471. G.S. 58-69-35 reads as rewritten:

"*§ 58-69-35. Violations; penalty.*

Any person, firm, association or corporation who shall violate any of the provisions of this Article shall be guilty of a ~~misdemeanor, and upon conviction shall be punished in the discretion of the court.~~ Class 1 misdemeanor."

-----PERMIT FROM COMMISSIONER OF INSURANCE

Sec. 472. G.S. 58-70-1 reads as rewritten:

"*§ 58-70-1. Permit from Commissioner of Insurance; penalty for violation; exception.*

No person, firm, corporation, or association shall conduct or operate a collection agency or do a collection agency business, as the same is hereinafter defined in this Article, until he or it shall have secured a permit therefor as provided in this Article. Any person, firm, corporation or association conducting or operating a collection agency or doing a collection agency business without the permit shall be guilty of a Class J felony. Any officer or agent of any person, firm, corporation or association, who shall personally and knowingly participate in any violation of the remaining provisions of this Part shall be guilty of a Class 1 misdemeanor. Provided, however, that nothing in this section shall be construed to require a regular employee of a duly licensed collection agency in this State to procure a collection agency permit."

-----BAIL BONDSMEN AND RUNNERS

Sec. 473. G.S. 58-71-185 reads as rewritten:

"*§ 58-71-185. Penalties for violations.*

Any person, firm, association or corporation violating any of the provisions of this Article is guilty of a ~~misdemeanor and shall upon conviction for each offense be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or imprisoned for not more than two years, or both.~~ Class 1 misdemeanor."

-----CARELESS OR NEGLIGENT SETTING OF FIRES

Sec. 474. G.S. 58-81-5 reads as rewritten:

"*§ 58-81-5. Careless or negligent setting of fires.*

Any person who in any fashion or manner negligently or carelessly sets fire to any bedding, furniture, draperies, house or household furnishings or other equipment or appurtenances in or to any hotel or other building of like occupancy shall be guilty of a ~~misdemeanor and shall be subject to a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or to imprisonment or to both fine and imprisonment in the discretion of the court.~~ Class 1 misdemeanor."

-----COMPLY WITH HOTEL SAFETY PROVISIONS

Sec. 475. G.S. 58-81-10 reads as rewritten:

"*§ 58-81-10. Penalty for noncompliance.*

Any owner, owners, proprietor or keeper of any hotel or other building of like occupancy who fails to comply with any of the foregoing provisions of this Article shall be guilty of a Class 3 misdemeanor and punished only by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00). Each day of noncompliance herewith shall constitute a separate offense."

-----WILLFUL INTERFERENCE WITH FIREMEN

Sec. 476. G.S. 58-82-1 reads as rewritten:

"*§ 58-82-1. Authority of firemen; penalty for willful interference with firemen.*

Members and employees of county, municipal corporation, fire protection district, sanitary district or privately incorporated fire departments shall have authority to do all acts reasonably necessary to extinguish fires and protect life and property from fire. Any person, including the owner of property which is burning, who shall willfully interfere in any manner with firemen engaged in the performance of their duties shall be guilty of a ~~misdemeanor and punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----FREE TRANSPORTATION

Sec. 477. G.S. 62-144(c) reads as rewritten:

"(c) Any person except those permitted by law accepting free transportation shall be guilty of a ~~misdemeanor, and on conviction shall be fined or imprisoned, or both, in the discretion of the court,~~ Class 1 misdemeanor."

-----TICKET MAY BE REFUSED INTOXICATED PERSON; PENALTY FOR PROHIBITED ENTRY

Sec. 478. G.S. 62-150 reads as rewritten:

"*§ 62-150. Ticket may be refused intoxicated person; penalty for prohibited entry.*

The ticket agent of any common carrier of passengers shall at all times have power to refuse to sell a ticket to any person applying for the same who may at the time be intoxicated. The conductor, driver or other person in charge of any conveyance for the use of the traveling public shall at all times have power to prevent any intoxicated person from entering such conveyance. If any intoxicated person, after being forbidden by the conductor, driver or other person having charge of any such conveyance for the use of the traveling public, shall enter such conveyance, he shall be guilty of a Class 1 misdemeanor."

Sec. 479. G.S. 62-221(b) reads as rewritten:

-----ENGAGING IN UNAUTHORIZED BUSINESS

"*§ 62-221. Engaging in unauthorized business.*

(a) It shall be unlawful for any railroad company incorporated under the laws of this State, or any railroad company incorporated under the laws of any other state and operating one or more railroads in this State, to engage in any business other than the business authorized by its or their charter.

"(b) Any railroad company violating the provisions of this section shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be fined in the discretion of the court."

-----OBSTRUCTING HIGHWAYS; DEFECTIVE CROSSINGS; NOTICE; FAILURE TO REPAIR AFTER NOTICE MISDEMEANOR

Sec. 480. G.S. 62-224(c) reads as rewritten:

"(c) If the railroad corporation shall fail to put such crossing in a safe condition for the passage of persons and property within 30 days from and after the service of the notice, it shall be guilty of a ~~misdemeanor and shall be punished in the discretion of the court,~~ Class 1 misdemeanor. Each calendar month which shall elapse after the giving of the notice and before the placing of such crossing in repair shall be a separate offense."

-----CATTLE GUARDS AND PRIVATE CROSSINGS; FAILURE TO ERECT AND MAINTAIN MISDEMEANOR

Sec. 481. G.S. 62-226 reads as rewritten:

"*§ 62-226. Cattle guards and private crossings; failure to erect and maintain misdemeanor.*

Every company owning, operating or constructing any railroad passing through and over the enclosed land of any person shall, at its own expense, construct and constantly maintain, in good and safe

condition, good and sufficient cattle guards at the points of entrance upon and exit from such enclosed land and shall also make and keep in constant repair crossings to any private road thereupon. Every railroad corporation which shall fail to erect and constantly maintain the cattle guards and crossings provided for by this section shall be liable to an action for damages to any party aggrieved, and shall be guilty of a Class 3 misdemeanor and only fined in the discretion of the court. Any cattle guard approved by the Commission shall be deemed a good and sufficient guard under this section."

-----SHELTER AT DIVISION POINTS REQUIRED; FAILURE TO PROVIDE A MISDEMEANOR

Sec. 482. G.S. 62-229(b) reads as rewritten:

"(b) Any person failing to comply with the requirements of this section shall be guilty of a Class 3 misdemeanor, and for each offense shall only be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00). Each day of such failure shall constitute a separate offense."

-----REFUSAL TO PERMIT COMMISSION TO INSPECT RECORDS MADE MISDEMEANOR

Sec. 483. G.S. 62-313 reads as rewritten:

"*§ 62-313. Refusal to permit Commission to inspect records made misdemeanor.*

Any public utility, its officers or agents in charge thereof, that fails or refuses upon the written demand of the Commission, or a majority of said Commission, and under the seal of the Commission, to permit the Commission, its authorized representatives or employees to examine and inspect its books, records, accounts and documents, or its plant, property, or facilities, as provided for by law, shall be guilty of a Class 3 misdemeanor. Each day of such failure or refusal shall constitute a separate offense and each such offense shall be punishable only by a fine of not less than five hundred dollars ($500.00) and not more than five thousand dollars ($5,000)."

-----ALLOWING OR ACCEPTING REBATES A MISDEMEANOR

Sec. 484. G.S. 62-318 reads as rewritten:

"*§ 62-318. Allowing or accepting rebates a misdemeanor.*

If any person shall participate in illegally pooling freights or shall directly or indirectly allow or accept rebates on freights, he shall be guilty of a ~~misdemeanor and, upon conviction, shall be fined not less than one thousand dollars ($1,000) or imprisoned not less than 12 months.~~ Class 1 misdemeanor."

-----RIDING ON TRAIN UNLAWFULLY; VENUE

Sec. 485. G.S. 62-319 reads as rewritten:

"*§ 62-319. Riding on train unlawfully; venue.*

If any person, with the intention of being transported free in violation of law, rides or attempts to ride on top of any car, coach, engine or tender, on any railroad in this State, or on the drawheads between cars, or under cars, on truss rods, or trucks, or in any freight car, or on a platform of any baggage car, express car or mail car on any train, he shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined not exceeding fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor. Any person charged with a violation of this section may be tried in any county in this State through which such train may pass carrying such person, or in any county in which such violation may have occurred or may be discovered."

-----FAILURE TO PLACE NAME ON PRODUCE A MISDEMEANOR

Sec. 486. G.S. 62-320 reads as rewritten:

"*§ 62-320. Failure to place name on produce a misdemeanor.*

Any person, selling or offering for sale or consignment any barrel, crate, box, case, package or other receptacle containing any berries, fruit, melons, potatoes, vegetables, truck or other produce of any kind whatsoever, to be shipped to any point within or without this State, without the true name of the grower or packer either written, printed, stamped or otherwise placed thereon in distinct and legible characters, shall be guilty of a Class 3 misdemeanor ~~and shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days~~: Provided, that this section shall not apply to railroads, express companies and other carriers selling or offering for sale, for transportation or storage charges or any other charges accruing to such railroads, express companies or other carriers, any barrel, crate, box, case, package, or other receptacle containing berries, fruit, melons, potatoes, vegetables, truck or other produce."

-----UNAUTHORIZED MANUFACTURE OR SALE OF SWITCH-LOCK KEYS

Sec. 487. G.S. 62-322 reads as rewritten:

"*§ 62-322. Unauthorized manufacture or sale of switch-lock keys a misdemeanor.*

It shall be unlawful for any person to make, manufacture, sell or give away to any other person any duplicate key to any lock used by any railroad company in this State on its switches or switch tracks, except upon the written order of that officer of such railroad company whose duty it is to distribute and issue switch-lock keys to the employees of such railroad company. Any person violating the provisions of this section shall be guilty of a ~~misdemeanor and shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----WILLFUL INJURY TO PROPERTY OF PUBLIC UTILITY A MISDEMEANOR

Sec. 488. G.S. 62-323 reads as rewritten:

"*§ 62-323. Willful injury to property of public utility a misdemeanor.*

If any person shall willfully do or cause to be done any act or acts whatever whereby any building, construction or work of any public utility, or any engine, machine or structure or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, he shall be guilty of a Class 1 misdemeanor."

-----UNLAWFUL MOTOR CARRIER OPERATIONS

Sec. 489. G.S. 62-325 reads as rewritten:

"*§ 62-325. Unlawful motor carrier operations.*

(a) Any person, whether carrier, passenger, shipper, consignee, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant, or give or solicit, accept, or receive any rebate, concession, or discrimination in violation of any provision of this Chapter, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulations as in this Chapter provided for motor carriers, shall be deemed guilty of a Class 3 misdemeanor and upon conviction thereof only be fined not more than five hundred dollars ($500.00) for the first offense and not more than two thousand dollars ($2,000) for any subsequent offense.

(b) Any motor carrier, or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required by this Article, or other applicable law, or to make specific and full, true, and correct answer to any question within 30 days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make true and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this Article to keep the same, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, shall be deemed guilty of a Class 3 misdemeanor and upon conviction thereof only be subject for each offense to a fine of not more than five

thousand dollars ($5,000). As used in this subsection the words 'kept' and 'keep' shall be construed to mean made, prepared, or compiled, as well as retained. It shall be the duty of the Commission to prescribe and enforce such general rules and regulations as it may deem necessary to compel all motor carriers to keep accurate records of all revenue received by them to the end that any tax levied and assessed by the State of North Carolina upon revenues may be collected. Any agent or employee of a motor carrier who shall willfully and knowingly make a false report or record of fares, charges, or other revenue received by a carrier or collected in its behalf shall be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor.

(c) Any person who, at any bus terminal, solicits or otherwise attempts to induce any person to use some form of transportation for compensation other than that lawfully using said terminal premises by contract with the terminal operator or by valid order of the Commission shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined not more than fifty dollars ($50.00) or imprisoned not to exceed 30 days, or both, in the discretion of the court.~~ Class 3 misdemeanor."

-----FURNISHING FALSE INFORMATION TO THE UTILITIES COMMISSION

Sec. 490. G.S. 62-326 reads as rewritten:

"*§ 62-326. Furnishing false information to the Commission; withholding information from the Commission.*

(a) Every person, firm or corporation operating under the jurisdiction of the Utilities Commission or who is required by law to file reports with the Commission who shall knowingly or willfully file or give false information to the Utilities Commission in any report, reply, response, or other statement or document furnished to the Commission shall be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor.

(b) Every person, firm, or corporation operating under the jurisdiction of the Utilities Commission or who is required by law to file reports with the Commission who shall willfully withhold clearly specified and reasonably obtainable information from the Commission in any report, response, reply or statement filed with the Commission in the performance of the duties of the Commission or who shall fail or refuse to file any report, response, reply or statement required by the Commission in the performance of the duties of the Commission shall be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----GIFTS TO MEMBERS OF COMMISSION, COMMISSION EMPLOYEES, OR PUBLIC STAFF

Sec. 491. G.S. 62-327 reads as rewritten:

"*§ 62-327. Gifts to members of Commission, Commission employees, or public staff.*

It shall be unlawful for any officer, agent, employee, or attorney of any public utility or any public utility holding company, subsidiary, or affiliated company, to knowingly offer or make to any member of the Commission, Commission staff, or public staff, any gift of money, property, or anything of value. It shall be unlawful for any member of the Commission, Commission staff, or public staff to knowingly accept any gift of money, property, or anything of value from any officer, agent, employee, or attorney of any public utility or any public utility holding company, subsidiary, or affiliated company; provided, however, that it shall not be unlawful for members of the Commission, Commission staff, or public staff to attend public breakfasts, lunches, dinners, or banquets sponsored by such entities. Any person violating this section shall be guilty of a Class 3 misdemeanor and may only be fined in the discretion of the court; provided, further, that any member of the Commission staff, or member of the public staff violating this section shall also be subject to dismissal for cause."

-----MISUSE OF 911 SYSTEM; PENALTY

Sec. 492. G.S. 62A-12 reads as rewritten:

"*§ 62A-12. Misuse of 911 system; penalty.*

Any person who intentionally calls the 911 number for other than purposes of obtaining public safety assistance commits a Class 1 misdemeanor."

-----DANGEROUS FLYING A MISDEMEANOR

Sec. 493. G.S. 63-18 reads as rewritten:

"*§ 63-18. Dangerous flying a misdemeanor.*

Any airman or passenger who, while in flight over a thickly inhabited area or over a public gathering within this State, shall engage in trick or acrobatic flying, or in any acrobatic feat, or shall except while in landing or taking off, fly at such a low level as to disturb the public peace or the rights of private persons in the enjoyment of their homes, or injure the health, or endanger the persons or property on the surface beneath, or drop any object except loose water or loose sand ballast, shall be guilty of a ~~misdemeanor and punishable by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than one year, or both.~~ Class 1 misdemeanor."

-----AIRCRAFT CONSTRUCTION, OPERATORS, AND LICENSES

Sec. 494. G.S. 63-23 reads as rewritten:

"*§ 63-23. Penalties.*

A person who violates any provision of G.S. 63-20, 63-21 or 63-22 of this Article shall be guilty of a Class 2 misdemeanor ~~and punishable by a fine of not more than one hundred dollars ($100.00), or by imprisonment for not more than 90 days, or both~~; provided, however, that acts or omissions made unlawful by G.S. 63-20, 63-21 or 63-22 of this Article shall not be deemed to include any act or omission which violates the laws or lawful regulations of the United States."

-----TAMPERING WITH AIRCRAFT MADE CRIME

Sec. 495. G.S. 63-26 reads as rewritten:

"*§ 63-26. Tampering with aircraft made crime.*

Any person who shall, without the consent of the owner, go upon or enter, tamper with or in any way damage or injure any airplane or other aircraft, or any personal property under the control of or being used by any public or private airport or aircraft landing facility shall be guilty of a Class 1 misdemeanor ~~and shall be punished by the imposition of a fine not to exceed five thousand dollars ($5,000) or imprisonment of not more than two years, or both~~, and the showing of willful or malicious intent shall not be necessary to sustain a conviction hereunder."

-----TRESPASS UPON AIRPORT PROPERTY MADE A CRIME

Sec. 496. G.S. 63-26.1(b) reads as rewritten:

"(b) A person commits the offense of trespass upon airport property if, without authorization, he enters or remains on airport property that is so enclosed or posted or secured as to demonstrate clearly an intent to keep out intruders. Violation of this section is a ~~misdemeanor and upon conviction a person shall be punished by imprisonment for up to six months, a fine of up to two thousand five hundred dollars ($2,500), or both.~~ Class 2 misdemeanor."

-----OPERATION OF AIRCRAFT WHILE IMPAIRED

Sec. 497. G.S. 63-27(e) reads as rewritten:

"(e) Punishment. -- A person violating this section shall be guilty of a ~~misdemeanor and shall be punished by imprisonment of not more than two years or a fine not to exceed one thousand dollars ($1,000) or both.~~ Class 1 misdemeanor. Provided, however, for a second and all subsequent convictions of this section, a person shall be guilty of a Class J felony."

-----MODEL AIRPORT ZONING ACT

Sec. 498. G.S. 63-35 reads as rewritten:

"*§ 63-35. Enforcement and remedies.*

Each violation of this Article or of any regulations, order, or ruling promulgated or made pursuant to this Article, shall constitute a Class 3 misdemeanor ~~and shall be punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days or~~

~~by both such fine and imprisonment~~, and each day a violation continues to exist shall constitute a separate offense. In addition, the political subdivision within which the property is located may institute in any court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this Article, or of airport zoning regulations adopted under this Article, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this Article and of the regulations adopted and orders and rulings made pursuant thereto."

-----POLICE POWER

Sec. 499. G.S. 63A-7(a) reads as rewritten:

"(a) The Authority has jurisdiction within a cargo airport complex site. The Board may adopt ordinances regulating traffic and parking within the cargo airport complex site and for the safety and welfare of those using the cargo airport complex. An ordinance adopted under this subsection shall be recorded in the minutes of the Board. A copy of the ordinance shall be filed in the office of the Attorney General of North Carolina and shall be posted at appropriate places in the cargo airport complex site. Any person who violates an ordinance of the Authority is guilty of a ~~misdemeanor and is punishable by a fine of up to fifty dollars ($50.00) or imprisonment for up to 30 days.~~ Class 3 misdemeanor."

-----LICENSES FOR CEMETERY SALES ORGANIZATIONS

Sec. 500. G.S. 65-57(h) reads as rewritten:

"(h) Any person or any cemetery sales organization or any cemetery management organization or any cemetery broker violating the provisions of this section is guilty of a Class 1 misdemeanor, ~~punishable as provided in G.S. 14-3~~ and shall be subject to revocation of the license to operate."

-----NORTH CAROLINA CEMETERY ACT

Sec. 501. G.S. 65-71(a) reads as rewritten:

"(a) Except as provided in this subsection, a person violating any provisions of this Article, of any order or rule promulgated under this Article, or of any license issued by the Commission is guilty of a ~~misdemeanor and shall be fined, imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor. Each failure to deposit funds in a trust fund in accordance with this Article is a separate offense. A person who has failed to deposit funds in a trust fund in accordance with this Article and whose delinquent deposits equal or exceed twenty thousand dollars ($20,000) is guilty of a Class J felony."

-----BURIAL WITHOUT REGARD TO RACE OR COLOR

Sec. 502. G.S. 65-72(b) reads as rewritten:

"(b) Any cemetery company or other legal entity violating the provisions of this section shall be guilty of a Class 1 misdemeanor, ~~punishable as provided in G.S. 14-3,~~ and each violation of this section shall constitute a separate offense."

-----FALSELY ACTING AS INSPECTOR

Sec. 503. G.S. 66-4 reads as rewritten:

"*§ 66-4. Falsely acting as inspector.*

If any person, who is not a legal or sworn inspector of lumber or other articles, presume to act as such, he shall forfeit and pay one hundred dollars ($100.00), and be guilty of a Class 1 misdemeanor."

-----JUNK DEALERS TO KEEP RECORD OF PURCHASES

Sec. 504. G.S. 66-10 reads as rewritten:

"*§ 66-10. Failure of junk dealers to keep record of purchases misdemeanor.*

Every person, firm, or corporation buying brass or copper, or any other metal, or any rubber, or leather and rubber belts and belting, as junk, shall keep a register and shall keep therein a true and accurate record of each purchase, showing the description of the article purchased, the name from whom purchased, the amount paid for the same, the date thereof, and also any and all marks or brands upon said metal, rubber, or leather and rubber belts and belting. The said register and the metal and rubber, and leather and rubber belts and belting purchased shall be at all times open to the inspection of the public. A failure to comply with these requirements or the making of a false entry concerning such metals, rubber, or leather, or rubber belts, or belting shall constitute a Class 1 misdemeanor.

Every person, firm or corporation engaged in the business of buying or dealing in what is commonly known as "junk," including scrap metal of every kind, nature or description, glass, waste paper, burlap, cloth, cordage, rubber, leather, belting of every kind, or brass, in addition to the above requirements, shall make and keep a record of the name and address of the person from whom such junk is purchased and the license number, if any, and if there is no license, a description of the vehicle in which such junk is delivered. Any person, firm or corporation who or which fails to comply with the requirements of this paragraph shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined not in excess of fifty dollars ($50.00) in the discretion of the court."

-----DEALING IN CERTAIN METALS REGULATED

Sec. 505. G.S. 66-11 reads as rewritten:

"*§ 66-11. Dealing in certain metals regulated; purchasing from minors; violations of section misdemeanor.*

Every person, firm, or corporation buying railroad brasses or any composition metal specially used in the operation of trains, or brasses, composition metals, or copper or aluminum of the kind or quality used by manufacturing or power plants or by the communication or electric utility industry, or any copper, brass or bronze of whatever kind or description, shall keep a register and shall insert therein a true and accurate record of each purchase, showing the name, address and driver's license number, the make and type of vehicle hauling said scrap, together with the license plate number thereon, of the person from whom purchased, the amount paid for the same, the date thereof, and also any and all marks or brands upon such metal. Such records shall be kept at the place of business of the person, firm or corporation and shall be open to inspection by any law officer. The register shall be at all times open to the inspection of the public. Any person or dealer buying or selling metals without complying with this section shall be guilty of a Class 1 misdemeanor; and any person making a false entry in such register shall be guilty of a Class 1 misdemeanor. Every person, firm, or corporation who shall buy or receive any such metals from persons under 18 years old, or who shall buy or receive any such metals after the same have been broken up and the marks or brands obliterated, shall be guilty of a Class 1 misdemeanor; and every person buying, receiving or selling, or offering for sale metals broken into small pieces, or so broken as to obliterate the marks or brands, shall be *prima facie* presumed to have received such metals knowing the same to have been stolen."

-----TRANSPORTATION OF COPPER

Sec. 506. G.S. 66-11.1 reads as rewritten:

"§ *66-11.1. Transportation of copper.*

It shall be unlawful for any person to transport or have in his possession on highways of this State, in any vehicle other than a vehicle used in the ordinary course of business for the purpose of transporting such copper, an amount of such copper of an aggregate weight of more than 25 pounds, unless such person shall have in his possession

(1) A bill of sale pertaining to such copper signed by (i) a holder of a sales and use tax registration number from the North Carolina Department of Revenue; or (ii) an authorized wholesaler engaged in the sale of such copper; or (iii) a registered dealer in scrap metals; or (iv) a seller of antiques or objects of art; or

(2) In the event the person from whom such copper was purchased was other than one of the above enumerated persons or firms, a certificate of origin signed by the sheriff,

or his designated representative, of the county in which the purchase was made.

Such bill of sale or certificate of origin shall clearly identify the material to which it applies and show thereon the name and address of the seller, license plate of the vehicle in which such material is delivered to the purchaser, identified by license number, year and state of issue, the name and address of the purchaser, the date of sale, and the type and amount of such copper purchased.

Any person violating the provisions of this ~~subsection~~ section shall be deemed guilty of a ~~misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or be imprisoned for not more than six months.~~ Class 2 misdemeanor."

-----MANUFACTURE AND SALE OF MATCHES

Sec. 507. G.S. 66-16 reads as rewritten:

"*§ 66-16. Violation of Article a misdemeanor.*

Any person, association, or corporation violating any of the provisions of this Article shall be guilty of a Class 3 misdemeanor and shall only be fined for the first offense not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00), and for each subsequent violation not less than twenty-five dollars ($25.00)."

-----CANDY AND SIMILAR PRODUCTS

Sec. 508. G.S. 66-22 reads as rewritten:

"*§ 66-22. Violations made misdemeanor.*

Any person convicted for the violation of this Article shall be guilty of a ~~misdemeanor and subject to a fine of not exceeding one hundred dollars ($100.00) or imprisonment for not exceeding 30 days or both fine and imprisonment in the discretion of the court.~~ Class 3 misdemeanor."

-----ELECTRICAL MATERIALS, DEVICES, APPLIANCES AND EQUIPMENT

Sec. 509. G.S. 66-27 reads as rewritten:

"*§ 66-27. Violation made misdemeanor.*

Any person, firm or corporation who shall violate any of the provisions of this Article shall be guilty of a ~~misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than 90 days, or both, for each violation.~~ Class 2 misdemeanor."

-----SAFETY FEATURES OF HOT WATER HEATERS

Sec. 510. G.S. 66-27.3 reads as follows:

"*§ 66-27.3. Violation of Article made misdemeanor.*

Violation of any provision of this Article is hereby made a ~~misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----HOUSE TRAILERS TO HAVE TWO DOORS

Sec. 511. G.S. 66-27.5(b) reads as rewritten:

"(b) It shall be unlawful for any dealer to sell in this State any house trailer manufactured or assembled after January 1, 1970, having a body length exceeding 32 feet which does not conform to the specifications set forth in subsection (a). Any dealer who violates this section shall be guilty of a ~~misdemeanor and upon conviction fined not exceeding five hundred dollars ($500.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor."

-----TAGGING SECONDHAND WATCHES

Sec. 512. G.S. 66-34 reads as rewritten:

"*§ 66-34. Violation of Article made misdemeanor.*

Any person violating any of the provisions of this Article shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be punished by a fine of not more than fifty dollars ($50.00), or by imprisonment for not more than 30 days, or both.~~ Class 3 misdemeanor."

-----UMSTEAD ACT

Sec. 513. G.S. 66-58(e) reads as rewritten:

"(e) Any person, whether employee of the State of North Carolina or not, who shall violate, or participate in the violation of this section, shall be guilty of a Class 1 misdemeanor."

-----COUPONS FOR PRODUCTS OF PHOTOGRAPHY

Sec. 514. G.S. 66-64 reads as rewritten:

"*§ 66-64. Violation a misdemeanor.*

Any person violating the provisions of this Article, including the making of any false statement in the affidavit required under G.S. 66-62, shall be guilty of a ~~misdemeanor and, upon conviction, be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----ANTIFREEZE WITH INORGANIC SALTS OR PETROLEUM DISTILLATES

Sec. 515. G.S. 66-66 reads as rewritten:

"*§ 66-66. Manufacture or sale of antifreeze solutions compounded with inorganic salts or petroleum distillates prohibited.*

The manufacture or sale of antifreeze solutions which are designated, intended, advertised, or recommended by the manufacturer or seller for use in the cooling systems of motor vehicles or gasoline combustion engines, and which are compounded with calcium chloride, magnesium chloride, sodium chloride, or other inorganic salts or with petroleum distillates is hereby prohibited.

Any person, firm, or corporation violating the provisions of this section shall be guilty of a ~~misdemeanor and shall be punished in the discretion of the court.~~ Class 1 misdemeanor."

-----USED GOODS ON CONSIGNMENT/RECORDS

Sec. 516. G.S. 66-67.2(c) reads as rewritten:

"(c) A person who fails to keep the records required by this section is guilty of a ~~misdemeanor punishable by imprisonment for up to six months, a fine of up to five hundred dollars ($500.00), or both.~~ Class 2 misdemeanor. A law enforcement agency may examine the records required to be kept under this section during business hours."

-----BUSINESS UNDER ASSUMED NAME

Sec. 517. G.S. 66-71(a)(1) reads as rewritten:

"(1) Shall be guilty of a Class 3 misdemeanor, ~~and upon conviction thereof shall be punished by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days,~~ and".

-----UNFAIR TRADE PRACTICES IN DIAMOND INDUSTRY

Sec. 518. G.S. 66-75 reads as rewritten:

"*§ 66-75. Penalty for violation; each practice a separate offense.*

Any person, firm, corporation or organization engaging in any unfair trade practice, as defined in this Article, shall be guilty of a ~~misdemeanor and upon conviction shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) or imprisoned; or both fined and imprisoned in the discretion of the court;~~ Class 1 misdemeanor; and each and every unfair trade practice engaged in shall be deemed a separate offense."

-----CLOSING-OUT SALE CONTRARY TO ARTICLE

Sec. 519. G.S. 66-81 reads as rewritten:

"*§ 66-81. Advertising or conducting sale contrary to Article; penalty.*

Any person who shall advertise, hold, conduct or carry on any sale of goods, wares or merchandise under the description of closing-out sale or a sale of goods, wares or merchandise damaged by fire, smoke, water or otherwise or a distress sale, contrary to the provisions of this Article, or who shall violate any of the provisions of this Article shall be deemed guilty of a ~~misdemeanor and shall, upon conviction thereof, be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----LABELING OF HOUSEHOLD CLEANERS

Sec. 520. G.S. 66-86 reads as rewritten:

"*§ 66-86. Penalty for selling product in violation of Article.*

Any person, firm or corporation selling or offering to sell any product in violation of the terms of this Article shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----SELLER OF BUSINESS OPPORTUNITY FILE W/SECRETARY OF STATE

Sec. 521. G.S. 66-97(e) reads as rewritten:

"(e) Failure to so file shall be a Class 1 misdemeanor."

-----BOND OR TRUST ACCOUNT REQUIRED

Sec. 522. G.S. 66-108(b) reads as rewritten:

"(b) Failure to comply with subsection (a) shall be a Class 1 misdemeanor."

-----LOAN BROKER'S ADS FILED WITH SECRETARY OF STATE

Sec. 523. G.S. 66-109(b) reads as rewritten:

"(b) Failure to comply with subsection (a) shall be a Class 1 misdemeanor."

-----RENTAL REFERRAL AGENCY; BOND OR TRUST ACCOUNT

Sec. 524. G.S. 66-145(d) reads as rewritten:

"(d) Violation of subsections (a) or (b) of this section shall constitute a Class 1 misdemeanor."

-----PERJURY/OBTAINING PERMIT/PRECIOUS METAL BUSINESS

Sec. 525. G.S. 66-167 reads as rewritten:

"*§ 66-167. Perjury; punishment.*

Any person who shall willfully commit perjury in any application for a permit or exemption filed pursuant to this Article shall be guilty of a Class 2 misdemeanor."

-----RECORDS BY DEALERS IN PRECIOUS METAL BUSINESS

Sec. 526. G.S. 66-169 reads as rewritten:

"*§ 66-169. Records to be kept.*

Every dealer to whom a permit has been issued pursuant to G.S. 66-165 shall maintain a tightly bound book or books (not loose- leaf), with pages numbered in sequence, in which shall be recorded, at the time of any purchase of precious metal, a serially numbered account and description of the specific items purchased, including, if applicable, the manufacturer's name, the model, the model number, the serial number, and any engraved numbers or initials found on the items, the date of the transaction, and the name, sex, race, residence, telephone number and driver's license number, if any, of the person selling the items purchased. Both the dealer and the seller shall sign the record entry. In the event the seller cannot furnish his driver's license, passport, or military identification card bearing his photograph, the dealer shall require two forms of positive identification.

The record book shall be open at all reasonable times to inspection on the premises by law-enforcement agencies and shall not be destroyed until two years following the last transaction which the record book reflects. A copy of each record book entry shall be filed within 48 hours of the transaction in the office of the local law-enforcement agency. Mailing the required copy to the local

law-enforcement agency within 48 hours shall constitute compliance with this section.

The files of local law-enforcement agencies which contain such copies of record book entries shall not be subject to inspection and examination as authorized by G.S. 132-6. Any public official or employee who shall knowingly and willfully permit any person to have access to or custody or possession of any portion of such files, unless the person is one specifically authorized by the local law-enforcement agency to have access thereto for purposes of law-enforcement investigation or civil or criminal proceedings, shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars ($500.00).

Every merchant to whom an exemption has been issued pursuant to G.S. 66-166 shall maintain a book in which shall be recorded, at the time of any purchase of precious metal, a description of the specific items purchased and the date of the transaction. This book shall be open at all reasonable times to inspection on the premises by law-enforcement agencies and shall not be destroyed until two years following the last transaction which the record book reflects."

-----DEALERS IN PRECIOUS METAL BUSINESS

Sec. 527. G.S. 66-172 reads as rewritten:

"§ *66-172. Penalties.*

Any dealer who violates the provisions of this Article shall be deemed guilty of a ~~misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned for not more than six months, or both.~~ Class 2 misdemeanor. In addition any dealer so convicted shall be ineligible for a dealer's permit for a period of three years from the date of conviction. Each and every violation shall constitute a separate and distinct offense."

-----PORTABLE SMELTERS PROHIBITED

Sec. 528. G.S. 66-173 reads as rewritten:

"§ *66-173. Portable smelters prohibited.*

It shall be unlawful for any person to possess or operate a smelter in any mobile home, trailer, camper, or other vehicle or structure not permanently affixed to the ground, for the purpose of refining precious metals. Violation of the provisions of this section shall constitute a ~~misdemeanor and shall be punishable by a fine of not more than five hundred dollars ($500.00) or imprisoned for not more than six months, or both.~~ Class 2 misdemeanor."

-----PERMITTING BITCH AT LARGE

Sec. 529. G.S. 67-2 reads as rewritten:

"§ *67-2. Permitting bitch at large.*

If any person owning or having any bitch shall knowingly permit her to run at large during the erotic stage of copulation he shall be guilty of a ~~misdemeanor and fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor."

-----SHEEP-KILLING DOGS TO BE KILLED

Sec. 530. G.S. 67-3 reads as rewritten:

"*§ 67-3. Sheep-killing dogs to be killed.*

If any person owning or having any dog that kills sheep or other domestic animals, or that kills a human being, upon satisfactory evidence of the same being made before any judge of the district court in the county, and the owner duly notified thereof, shall refuse to kill it, and shall permit such dog to go at liberty, he shall be guilty of a Class 3 misdemeanor, ~~and fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days,~~ and the dog may be killed by anyone if found going at large."

-----FAILING TO KILL MAD DOG

Sec. 531. G.S. 67-4 reads as rewritten:

"*§ 67-4. Failing to kill mad dog.*

If the owner of any dog shall know, or have good reason to believe, that his dog, or any dog belonging to any person under his control, has been bitten by a mad dog, and shall neglect or refuse immediately to kill the same, he shall forfeit and pay the sum of fifty dollars ($50.00) to him who will sue therefor; and the offender shall be liable to pay all damages which may be sustained by anyone, in his property or person, by the bite of any such dog, and shall be guilty of a ~~misdemeanor, and fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----PRECAUTIONS AGAINST ATTACKS BY DANGEROUS DOGS

Sec. 532. G.S. 67-4.2(c) reads as rewritten:

"(c) Violation of this section is a ~~misdemeanor punishable by a fine not to exceed one hundred dollars ($100.00) or imprisonment for not more than 30 days or both.~~ Class 3 misdemeanor."

-----PENALTY FOR ATTACKS BY DANGEROUS DOGS

Sec. 533. G.S. 67-4.3 reads as rewritten:

"*§ 67-4.3. Penalty for attacks by dangerous dogs.*

The owner of a dangerous dog that attacks a person and causes physical injuries requiring medical treatment in excess of one hundred dollars ($100.00) shall be guilty of a ~~misdemeanor punishable by a fine of up to five thousand dollars ($5,000), imprisonment up to two years, or both.~~ Class 1 misdemeanor."

-----PERMITTING DOGS TO RUN AT LARGE AT NIGHT

Sec. 534. G.S. 67-12 reads as rewritten:

"*§ 67-12. Permitting dogs to run at large at night; penalty; liability for damage.*

No person shall allow his dog over six months old to run at large in the nighttime unaccompanied by the owner or by some member of the owner's family, or some other person by the owner's permission. Any person intentionally, knowingly, and willfully violating this section shall be guilty of a Class 3 misdemeanor, ~~and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days,~~ and shall also be liable in damages to any person injured or suffering loss to his property or chattels."

-----LICENSE TAXES ON DOGS

Sec. 535. G.S. 67-16 reads as rewritten:

"*§ 67-16. Failure to discharge duties imposed under this Article.*

Any person failing to discharge any duty imposed upon him under this Article shall be guilty of a ~~misdemeanor, and upon conviction shall pay a fine not exceeding fifty dollars ($50.00) or be imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----ALLOWING LIVESTOCK TO RUN AT LARGE FORBIDDEN

Sec. 536. G.S. 68-16 reads as rewritten:

"*§ 68-16. Allowing livestock to run at large forbidden.*

If any person shall allow his livestock to run at large, he shall be guilty of a Class 3 misdemeanor."

-----ILLEGALLY RELEASING OR RECEIVING IMPOUNDED LIVESTOCK MISDEMEANOR

Sec. 537. G.S. 68-21 reads as rewritten:

"*§ 68-21. Illegally releasing or receiving impounded livestock misdemeanor.*

If any person willfully releases any lawfully impounded livestock without the permission of the impounder or receives such livestock knowing that it was unlawfully released, he shall be guilty of a Class 3 misdemeanor."

-----IMPOUNDED LIVESTOCK TO BE FED AND WATERED

Sec. 538. G.S. 68-22 reads as rewritten:

"*§ 68-22. Impounded livestock to be fed and watered.*

If any person shall impound or cause to be impounded any livestock and shall fail to supply to the livestock during the confinement a reasonably adequate quantity of good and wholesome feed and water, he shall be guilty of a Class 3 misdemeanor."

-----DOMESTIC FOWLS RUNNING AT LARGE AFTER NOTICE

Sec. 539. G.S. 68-24 reads as rewritten:

"*§ 68-24. Penalties for violation of this Article.*

~~Any person found guilty of violating any of the provisions of~~ A violation of G.S. 68-16, 68-21 or 68-22 ~~shall be punished by a fine not exceeding two hundred dollars ($200.00) or imprisonment not exceeding 30 days or both.~~ is a Class 3 misdemeanor."

Sec. 540. G.S. 68-25 reads as rewritten:

"§ *68-25. Domestic fowls running at large after notice.*

If any person shall permit any turkeys, geese, chickens, ducks or other domestic fowls to run at large on the lands of any other person while such lands are under cultivation in any kind of grain or feedstuff or while being used for gardens or ornamental purposes, after having received actual or constructive notice of such running at large, he shall be guilty of a Class 3 misdemeanor.

If it shall appear to any magistrate that after three days' notice any person persists in allowing his fowls to run at large in violation of this section and fails or refuses to keep them upon his own premises, then the said magistrate may, in his discretion, order any sheriff or other officer to kill the fowls when they are running at large as herein provided."

-----STOCK RUNNING AT LARGE ALONG THE OUTER BANKS

Sec. 541. G.S. 68-44 reads as rewritten:

"§ *68-44. Penalty for violation of* § *68-42.*

Any person, firm or corporation violating the provisions of G.S. 68-42 shall be guilty of a ~~misdemeanor, and upon conviction, shall be fined not more than one hundred dollars ($100.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----DESTRUCTION OR SALE OF RELIC FROM PUBLIC LANDS

Sec. 542. G.S. 70-4 reads as rewritten:

"§ *70-4. Destruction or sale of relic from public lands made misdemeanor.*

Any person who shall excavate, disturb, remove, destroy or sell any Indian relic or artifact, or any of the contents of any mound or burial ground, on or from any lands owned by the State, by any public agency or institution, by any county, or by any municipal corporation, except with the written approval of the director of the State Museum or the Secretary of the Department of Cultural Resources, shall be guilty of a Class 1 misdemeanor."

-----DISCOVERY OF UNMARKED HUMAN BURIAL AND SKELETAL REMAINS

Sec. 543. G.S. 70-40(a) reads as rewritten:

"(a) Violation of the provisions of G.S. 70-29 is a Class 1 misdemeanor."

-----ADMITTANCE OF PETS TO HOTEL ROOMS

Sec. 544. G.S. 72-7.1(c) reads as rewritten:

"(c) All sleeping rooms in which the innkeeper permits pets must contain a sign measuring not less than five inches by seven inches, posted in a prominent place in the room, which shall be separate from the sign required by G.S. 72-6, stating that pets are permitted in the room, or whether certain pets are prohibited or permitted in the room, and stating that bringing pets into a room in which they are not

permitted is a ~~misdemeanor under North Carolina law punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment not to exceed 30 days, or both.~~ Class 3 misdemeanor."

Sec. 545. G.S. 72-7.1(d) reads as rewritten:

"(d) Any person violating the provisions of this section shall ~~be guilty of a misdemeanor and upon conviction shall pay a fine not to exceed five hundred dollars ($500.00) or be imprisoned for not more than 30 days, or both.~~ Class 3 misdemeanor."

-----REGISTRATION TO BE IN TRUE NAME; ADDRESSES; PEACE OFFICERS

Sec. 546. G.S. 72-30 reads as rewritten:

"*§ 72-30. Registration to be in true name; addresses; peace officers.*

No person shall write, or cause to be written, or if in charge of a register knowingly permit to be written, in any register in any lodging house or hotel any other or different name or designation than the true name or names in ordinary use of the person registering or causing himself to be registered therein. Any person occupying any room or rooms in any lodging house or hotel shall register or cause himself to be registered where registration is required by such lodging house or hotel. Any person registering or causing himself to be registered at any lodging house or hotel, shall write, or cause to be written, in the register of such lodging house or hotel the correct address of the person registering, or causing himself to be registered. Any person violating any provision of this section shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be punished by a fine not exceeding two hundred dollars ($200.00). This section shall not apply to any peace officer of this State who shall privately give his true name to the clerk or proprietor of such hotel or lodging house."

-----FALSE REGISTRATION AND USE FOR IMMORAL PURPOSES

Sec. 547. G.S. 72-37 reads as rewritten:

"*§ 72-37. False registration and use for immoral purposes made misdemeanor.*

Any man or woman found occupying the same room in any establishment within the meaning of this Article for any immoral purpose, or any man or woman falsely registering as or otherwise representing themselves to be husband and wife in any such establishment shall, upon conviction thereof, be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court,~~ Class 1 misdemeanor."

-----INNKEEPER KNOWINGLY PERMITTING IMMORALITY

Sec. 548. G.S. 72-38 reads as rewritten:

"*§ 72-38. Operator knowingly permitting violations, guilty of misdemeanor.*

Any person being the operator or keeper of any establishment within the meaning of this Article who shall knowingly permit any man or woman to occupy any room in any establishment within the meaning of this Article for any immoral purposes, or who shall knowingly permit any man or woman to falsely register as husband and wife in such an establishment, shall, upon conviction thereof, be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----OPERATION WITHOUT LICENSE MADE MISDEMEANOR

Sec. 549. G.S. 72-43 reads as rewritten:

"*§ 72-43. Operation without license made misdemeanor.*

It shall be unlawful for any person, firm or corporation to engage in such business without first obtaining a license therefor. Any person violating the provisions of this section shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----TOURISTS CAMPS, ROADHOUSES AND PUBLIC DANCE HALLS

Sec. 550. G.S. 72-44 reads as rewritten:

"*§ 72-44. Violations of Article made misdemeanor.*

Unless another penalty is in this Article or by the laws of this State provided, any person violating any of the provisions of this Article shall, upon conviction thereof, be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----ADVERTISEMENTS BY MOTOR CAMPS, TOURIST CAMPS, ETC.

Sec. 551. G.S. 72-51 reads as rewritten:

"*§ 72-51. Violation a misdemeanor.*

Any person, firm, or corporation, violating the provisions of this Article shall be guilty of a ~~misdemeanor and shall, upon conviction, be punished as provided by law in the case of misdemeanors.~~ Class 1 misdemeanor."

-----KEEPING FALSE TOLL DISHES MISDEMEANOR

Sec. 552. G.S. 73-4 reads as rewritten:

"*§ 73-4. Keeping false toll dishes misdemeanor.*

If any owner, by himself or servant, keeping any mill, shall keep any false toll dishes, he shall be guilty of a Class 1 misdemeanor."

-----MINE SAFETY AND HEALTH ACT

Sec. 553. G.S. 74-24.14 reads as rewritten:

"*§ 74-24.14. Criminal penalties.*

Any person who (i) willfully violates any standard, order, notice, decision, rule, or regulation issued under authority of this Article, and said violation causes death or serious physical harm to another; (ii)

knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Article or required by any order, notice, or decision issued under this Article; (iii) knowingly distributes, sells, offers for sale, introduces, or delivers any equipment, machinery, article, or apparatus which is represented as complying with the provisions of this Article, or with any specification or regulation of the Commissioner applicable to such equipment, machinery, article, or apparatus and knowing it does not so comply, shall be guilty of a ~~misdemeanor and upon conviction thereof be punished for each such offense by a fine of not more than ten thousand dollars ($10,000), or by imprisonment not to exceed 60 days, or both.~~ Class 2 misdemeanor. In any instance in which such offense is committed by a corporation, the officer or authorized representative of such corporation who knowingly permits such offense to be committed shall, upon conviction, be subject to the same fine or imprisonment, or both."

-----OBSTRUCTING MINING DRAINS

Sec. 554. G.S. 74-30 reads as rewritten:

"§ *74-30. Obstructing mining drains.*

If any person shall obstruct any drain or ditch constructed under the provisions of this Chapter, he shall be guilty of a Class 1 misdemeanor."

-----MINING ACT OF 1971

Sec. 555. G.S. 74-64(b) reads as rewritten:

"(b) Criminal Penalties. -- In addition to other penalties provided by this Article, any operator who engages in mining in willful violation of the provisions of this Article or of any rules promulgated hereunder or who willfully misrepresents any fact in any action taken pursuant to this Article or willfully gives false information in any application or report required by this Article shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, shall only be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense. Each day of continued violation after written notification shall be considered a separate offense."

-----EXPLORATION FOR URANIUM IN NORTH CAROLINA

Sec. 556. G.S. 74-87(c) reads as rewritten:

"(c) Criminal Penalties. -- In addition to other penalties provided by this Article, any person who engaged in exploration activity in willful violation of the provisions of this Article or of any rules promulgated under it or who willfully misrepresented any material fact in any action taken pursuant to this Article shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, shall only be fined not less than one hundred dollars ($100.00) nor more than one thousand

dollars ($1,000) for each offense. Each day of continued violation after written notification shall be considered a separate offense."

-----PRIVATE PROTECTIVE SERVICES

Sec. 557. G.S. 74C-17(b) reads as rewritten:

"(b) Any person, firm, association, or corporation or their agents and employees violating any of the provisions of this Chapter or knowingly violating any rule promulgated to implement this Chapter shall be guilty of a ~~misdemeanor and punishable by a fine of up to five hundred dollars ($500.00), by imprisonment for a term not to exceed one year, or by both, in the discretion of the court.~~ Class 1 misdemeanor. The Attorney General, or his representative, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter."

-----ALARM SYSTEMS

Sec. 558. G.S. 74D-11(b) reads as rewritten:

"(b) Any person, firm, association, corporation, or department or division of a firm, association or corporation, or their agents and employees violating any of the provisions of this Chapter or knowingly violating any rule promulgated to implement this Chapter shall be guilty of a ~~misdemeanor and punishable by a fine of up to five hundred dollars ($500.00), by imprisonment for a term not to exceed one year, or by both, in the discretion of the court.~~ Class 1 misdemeanor. The Attorney General, or his representative, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter."

-----ANTITRUST

Sec. 559. G.S. 75-6 reads as rewritten:

"*§ 75-6. Violation a misdemeanor; punishment.*

Any corporation, either as agent or principal, violating any of the provisions of G.S. 75-5 shall be guilty of a Class 1 misdemeanor, and such corporation shall upon conviction be fined not less than one thousand dollars ($1,000) for each and every offense, and any person, whether acting for himself or as officer of any corporation or as agent of any corporation or persons violating any of the provisions of this Chapter, with the exception of G.S. 75-1.1 (the violation of which does not constitute a crime), shall be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----REFUSAL TO FURNISH INFORMATION; FALSE SWEARING

Sec. 560. G.S. 75-12 reads as rewritten:

"*§ 75-12. Refusal to furnish information; false swearing.*

Any corporation or person unlawfully refusing or willfully neglecting to furnish the information required by this Chapter, when it

is demanded as herein provided, shall be guilty of a Class 3 misdemeanor and only fined not less than one thousand dollars ($1,000): Provided, that if any corporation or person shall in writing notify the Attorney General that it objects to the time or place designated by him for the examination or inspection provided for in this Chapter, it shall be his duty to apply to a justice or judge of the appellate or superior court division, who shall fix an appropriate time and place for such examination or inspection, and such corporation or person shall, in such event, be guilty under this section only in the event of its failure, refusal or neglect to appear at the time and place so fixed by the judge and furnish the information required by this Chapter. False swearing by any person examined under the provisions of this Chapter shall constitute perjury, and the person guilty of it shall be punishable as in other cases of perjury."

-----UNAUTHORIZED DISCLOSURE OF TAX INFORMATION

Sec. 561. G.S. 75-28 reads as rewritten:

"*§ 75-28. Unauthorized disclosure of tax information; violation a misdemeanor.*

Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for any person, firm or corporation employed or engaged to prepare, or who or which prepares or undertakes to prepare, for any other person or taxpayer any tax form, report or return, to disclose, divulge or make known in any manner or use for any purpose or in any manner other than in the preparation of such form, report or return, without the express consent of the taxpayer or person for whom the form or return is prepared, the name or address of the taxpayer or such other person, the amount of income, income tax or other taxes, or any other information shown on or included in such form, report or return, or any information which may be or may have been furnished by the taxpayer or such other person to the preparer of such form, report or return or to the person, firm or corporation so employed or engaged.

Nothing in this section shall be construed to amend or modify the authority specified in G.S. 105-276(6) or any statute enacted in substitution therefor.

Nothing in this section shall be construed to prohibit the inspection of such forms, reports or returns required under Subchapter I of Chapter 105 of the General Statutes in accordance with the authority provided in G.S. 105-259, or the examination of any person, books, papers, records or other data in accordance with the authority provided in G.S. 105-258.

Any person, firm or corporation, or any officer, agent, clerk, employee, or former officer or employee, of any firm or corporation engaged or formerly engaged in the preparation of tax forms, reports

or returns for others, whether acting for himself or as agent for such corporation, who or which shall violate the provisions of this section shall be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----AUTOMATIC DIALING AND RECORDED MESSAGE PLAYERS

Sec. 562. G.S. 75-30(e) reads as rewritten:

"(e) Violation of this section shall be a Class 3 misdemeanor, punishable only by a fine of one hundred dollars ($100.00), for each occurrence."

-----WILDLIFE LICENSES

Sec. 563. G.S. 75A-5(e) reads as rewritten:

"(e) The Wildlife Resources Commission may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this Chapter and with any rules and regulations of the Commission, shall be valid as if awarded directly by the Commission. As compensation for his services any such agent shall be allowed to retain for his own use fifty cents (50¢). It is a Class 1 misdemeanor ~~punishable in the discretion of the court~~ for any such agent to charge or accept any additional fee, remuneration, or other thing of value for such services."

Sec. 564. G.S. 75A-5(l) reads as rewritten:

"(l) When certificates of number are to be issued by agents as provided by subsection (e) of this section, the Wildlife Resources Commission is authorized by regulation to establish the qualifications of such agents, including, but not limited to, their financial responsibility, the locations and types of business operated by them and their facilities for safekeeping of unused certificates of number, validation decals, and the monetary proceeds of certificates which have been issued; to prescribe the duties of such agents, including, but not limited to, the methods of issuing certificates of number and validation decals, the evidence of ownership of vessels to be numbered by applicants for number, the times and methods of making periodic and final reports of certificates and decals issued and remaining unissued and remittances of public moneys and unissued certificates and decals; to establish methods and procedures of ensuring accountability of such agents for the proceeds of certificates and decals issued and for certificates and decals remaining unissued; to require individual or blanket bonds of such agents in amounts sufficient to protect the State against loss of public moneys and unissued certificates and decals, the premiums for such bonds to be paid by the agents; to permit such agents to issue both original certificates of number and validation

decals and renewals thereof or to limit such agents, or any of them, to the issuance of the originals only; to authorize some or all of such agents to issue temporary certificates of number for use during a limited time pending delivery of regular certificates of number and validation decals; to establish methods and procedures, including submission of the amounts and kinds of evidence which the Commission may deem sufficient, whereby any such agent may be relieved of accountability for the value of unissued certificates and validation decals, or of the monetary proceeds of those which have been issued, which have been lost or destroyed as the result of any occurrence which is beyond the control of such agent; and to prescribe such other reasonable requirements and conditions as the Commission may, in its discretion, deem necessary or desirable to expedite and control the issuance of certificates of number by such agents. In accordance with such regulations, the executive director is authorized to prepare and distribute all forms necessary or convenient for application for and the appointment and bonding of such agents and for receipts, reports and remittances by such agents; to select and appoint such agents in areas most convenient to the boating public and to limit the number of such agents in any locality; to require prompt and accurate reporting and remission of public moneys and unissued certificates and decals by such agents, and to require periodic or special audits of their accounts; to revoke or terminate any such agency for failure to make timely reports and remittances or to comply with any administrative directive or regulation of the Commission, or when he has reason to believe that State money or property is in jeopardy; and to require immediate surrender of all agency accounts, forms, certificates, decals and State moneys in the event of such revocation or termination of any such agency. A person who is denied the authority to act as an agent for the issuance of certificates of number and validation decals or whose authority to do so is revoked may not commence a contested case under G.S. 150B-23. Any violation of the regulations authorized by this subsection shall be a ~~misdemeanor punishable in the discretion of the court,~~ Class 1 misdemeanor. If any check or draft of any agent for the issuance of certificates of boat number shall be returned by the banking facility upon which the same is drawn for lack of funds, such agent shall be liable to the Wildlife Resources Commission for a penalty of five percent (5%) of the amount of such check or draft, but in no event shall such penalty be less than five dollars ($5.00) or more than two hundred dollars ($200.00)."

-----COMMERCIAL FISHING BOATS; RENEWAL OF NUMBER

Sec. 565. G.S. 75A-5.1(d) reads as rewritten:

"(d) Any person who shall willfully give false information upon the application or the statement required by the preceding paragraph, or who shall falsify any tax receipt thereby required, shall be guilty of a ~~misdemeanor and shall, upon conviction thereof, be punished by a fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----BOAT SAFETY ACT

Sec. 566. G.S. 75A-18 reads as rewritten:

"*§ 75A-18. Penalties.*

(a) Except as otherwise provided, any person who violates any provision of this Article or who violates any rule or regulation adopted under authority of this Chapter shall be guilty of a Class 3 misdemeanor and shall only be subject to a fine not to exceed two hundred and fifty dollars ($250.00) for each such violation. The limitation prescribed by the preceding sentence shall not apply in any case where a more severe penalty may be prescribed in any of said sections.

(b) Any person who violates any provision of G.S. 75A-10(a), (b), or (b1) shall be guilty of a ~~misdemeanor and shall be subject to a fine of not to exceed five hundred dollars ($500.00) or imprisonment for not to exceed six months, or both, for each violation.~~ Class 2 misdemeanor.

(c) Any person who violates any provision of G.S. 75A-13.1 shall be guilty of a Class 3 misdemeanor and upon conviction thereof shall only be fined no more than twenty-five dollars ($25.00).

(d) A person who:

(1) Willfully violates G.S. 75A-10(d) is guilty of a ~~misdemeanor punishable by imprisonment not to exceed one year, a fine not to exceed ten thousand dollars ($10,000) per day of violation, or both in the discretion of the court.~~ Class 1 misdemeanor.

(2) Willfully violates G.S. 75A-10(d) and in so doing releases medical waste that creates a substantial risk of physical injury to any person who is not a participant in the offense is guilty of a Class I felony punishable by imprisonment, a fine not to exceed fifty thousand dollars ($50,000) per day of violation, or both in the discretion of the court."

-----SURRENDER OF CERTIFICATE REQUIRED WHEN SECURITY INTEREST PAID

Sec. 567. G.S. 75A-47 reads as rewritten:

"*§ 75A-47. Surrender of certificate required when security interest paid.*

It is unlawful and constitutes a Class 1 misdemeanor for a secured party who holds a certificate of title as provided in this Article to refuse or fail to surrender the certificate of title to the person legally

entitled to it within 10 days after his security interest has been paid and satisfied."

-----LEVY OF EXECUTION, ETC.

Sec. 568. G.S. 75A-48 reads as rewritten:

"*§ 75A-48. Levy of execution, etc.*

A levy made by virtue of an execution or other proper court order, upon a watercraft for which a certificate of title has been issued by the Commission, shall constitute a lien, subsequent to security interests previously recorded by the Commission and subsequent to security interests in inventory held for sale and perfected as otherwise permitted by law, if and when the officer making the levy reports to the Commission at its principal office, on forms provided by the Commission, that the levy has been made and that the watercraft levied upon has been seized by and is in the custody of the officer. Should the lien thereafter be satisfied or should the watercraft levied upon and seized thereafter be released by the officer, he shall immediately report that fact to the Commission at its principal office. Any owner who, after a levy and seizure by an officer and before the officer reports the levy and seizure to the Commission, fraudulently assigns or transfers his title to or interest in the watercraft, or causes the certificate of title to be assigned or transferred, or causes a security interest to be shown upon such certificate of title, is guilty of a Class 1 misdemeanor."

------RICO ACT

Sec. 569. G.S. 75D-6 reads as rewritten:

"*§ 75D-6. Power to compel examination.*

Whenever the Attorney General has reason to believe that any person or enterprise may have information or may be in possession, custody or control of any documentary materials relevant to an activity prohibited under G.S. 75D-4, he may issue in writing, and cause to be served upon such person or upon the appropriate officers, agents, and employees of any such enterprise (other than one employed as an attorney by such person or enterprise), a notice requiring such person or enterprise to submit themselves to examination by him, and produce for his inspection any documentary material relevant to an investigation of activities prohibited by G.S. 75D-4.

The notice shall be served either personally or by registered or certified mail return receipt requested. The notice shall specify the general purpose of the examination, a general description of the documentary material to be produced, and the time and place where such examination will take place. The witness shall be placed under oath or affirmation to testify truthfully. The examination shall be recorded and the witness has the right to a copy upon payment of its

cost. The witness has the right to have legal counsel present during the examination.

The Attorney General shall also have the right to apply to any judge of the superior court division, after five days' prior notice of such application served in the same manner as the notice of examination described in this section, for an order requiring such person or enterprise to appear and subject himself or itself to examination, and disobedience of such order shall constitute contempt, and shall be punishable as in other cases of disobedience of a proper order of such court.

No such demand or order of a court shall contain any requirement which would be held to be unreasonable if contained in a civil discovery request or court order issued pursuant to G.S. 1A-1, Rules of Civil Procedure 26-36. Any person or enterprise upon whom a demand is served and who objects to complying with such demand in whole or in part, shall, within five days of service of the demand, serve a written reply upon the Attorney General specifying the nature of the objection.

Such examination shall be held in camera and no one, except the person or enterprise being examined, may release information obtained from the examination prior to a proceeding being instituted under this Chapter by the Attorney General. Such information may be used in any proceeding instituted under this Chapter by the Attorney General. Any person violating the provisions of this paragraph shall be guilty of a ~~misdemeanor and fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000) or imprisoned, or both.~~ Class 1 misdemeanor. If such offending person is a public officer or employee, he shall also be dismissed from such office or employment and shall not hold any public office or employment in this State for a period of five years after conviction. This paragraph does not prohibit disclosure of this information to other employees of the Department of Justice, or to district attorneys designated in writing by the Attorney General as authorized to receive this information."

-----NAVIGABLE WATERS; CERTAIN PRACTICES REGULATED

Sec. 570. G.S. 76-40 reads as rewritten:

"*§ 76-40. Navigable waters; certain practices regulated.*

(a) It shall be unlawful for any person, firm or corporation to place, deposit, leave or cause to be placed, deposited or left, either temporarily or permanently, any trash, refuse, rubbish, garbage, debris, rubble, scrapped vehicle or equipment or other similar waste material in or upon any body of navigable water in this State; 'waste material' shall not include spoil materials lawfully dug or dredged from navigable waters and deposited in spoil areas designated by the

Department of Environment, Health, and Natural Resources; violation of this section shall constitute a ~~misdemeanor, punishable by a fine of up to five hundred dollars ($500.00) or imprisonment for up to six months, or both, in the discretion of the court~~ Class 2 misdemeanor.

(a1) It shall be unlawful for any person, firm or corporation to place, deposit, leave or cause to be placed, deposited, or left, either temporarily or permanently, any medical waste as defined in G.S. 130A-290 in the open waters of the Atlantic Ocean over which the State has jurisdiction or the navigable waters of this State.

(1) A person who willfully violates this subsection is guilty of a ~~misdemeanor punishable by imprisonment not to exceed one year, a fine not to exceed ten thousand dollars ($10,000) per day of violation, or both in the discretion of the court.~~ Class 1 misdemeanor.

(2) A person who willfully violates this subsection and in so doing releases medical waste that creates a substantial risk of physical injury to any person who is not a participant in the offense is guilty of a Class I felony punishable by imprisonment, a fine not to exceed fifty thousand dollars ($50,000) per day of violation, or both in the discretion of the court.

(b) No person, firm or corporation shall erect upon the floor of, or in or upon, any body of navigable water in this State, any sign or other structure, without having first secured a permit to do so from the appropriate federal agencies (which would include a permit from the State of North Carolina) or from the Department of Administration, or from the agency designated by the Department to issue such permit. Provided, however, this subsection shall not apply to commercial fishing nets, fish offal, ramps, boathouses, piers or duck blinds placed in navigable waters. Any person, firm or corporation erecting such sign or other structure without a proper permit or not in accordance with the specification of such permit shall be guilty of a ~~misdemeanor and upon conviction shall be fined up to five hundred dollars ($500.00) or imprisoned for up to six months, or both, in the discretion of the court.~~ Class 2 misdemeanor. The State may immediately proceed to remove or cause to be removed such unlawful sign or structure after five days' notice to the owner or erector thereof and the cost of such removal by the State shall be payable by the person, firm or corporation who erected or owns the unlawful sign or other structure and the State may bring suit to recover the costs of the removal thereof.

(c) Whenever any structure lawfully erected upon the floor of, or in or upon, any body of navigable water in this State, is abandoned, such structure shall be removed by the owner thereof and the area

cleaned up within 30 days of such abandonment; failure to comply with this section shall constitute a ~~misdemeanor and upon conviction the owner of the abandoned structure shall be fined up to five hundred dollars ($500.00) or imprisoned for not over six months, or both, in the discretion of the court.~~ Class 2 misdemeanor. The State may, after 10 days' notice to the owner or erector thereof, remove the abandoned structure and have the area cleaned up and the cost of such removal and cleaning up by the State shall be payable by the owner or erector of the abandoned structure and the State may bring suit to recover the costs thereof.

(d) For purposes of this section, the term 'navigable waters' shall not include any waters within the boundaries of any reservoir, pond or impoundment used in connection with the generation of electricity, or of any reservoir project owned or operated by the United States.

(e) The provisions of this section, in the coastal waters of this State, shall be enforced by the Department of Environment, Health, and Natural Resources. In the inland waters of the State, the provisions of this section shall be enforced by the Wildlife Resources Commission. The Department of Environment, Health, and Natural Resources and the Wildlife Resources Commission shall cooperate [Environmental Management Commission] in the enforcement of this section."

-----OBSTRUCTING WATERS OF CURRITUCK SOUND

Sec. 571. G.S. 76-41 reads as rewritten:

"§ *76-41. Obstructing waters of Currituck Sound.*

It shall be unlawful for any person to obstruct navigation in the waters of Currituck Sound and tributaries, and all persons, corporations, companies, or clubs, who have heretofore placed or caused to be placed any hedging across the mouth of a bay, creek, strait, or lead of water in Currituck Sound or tributaries, made of iron, wire, or wood or other material, for the purpose of preventing the free passage of boats or vessels of any size or class, or to stop the public use of such bay, creek, strait, or lead of water, are required to forthwith remove the same. Any person, corporation, or club violating any of the provisions of this section shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not more than fifty dollars ($50.00) nor less than ten dollars ($10.00), or imprisoned not more than 30 days, at the discretion of the court.~~ Class 3 misdemeanor."

-----LUMBERMEN TO REMOVE OBSTRUCTIONS IN ALBEMARLE SOUND

Sec. 572. G.S. 76-42 reads as rewritten:

"§ *76-42. Lumbermen to remove obstructions in Albemarle Sound.*

If any lumberman shall fail to remove all obstructions placed by him in the waters of Albemarle Sound and its tributaries, as soon as

practicable, after they have ceased to use them for the purpose for which they were placed in said waters, from all places where the water is not less than two feet deep, and also from all landing places on both sides, for the space of 60 feet from the shore outward, he shall be guilty of a Class 3 misdemeanor, and only fined not less than one dollar ($1.00) nor more than fifty dollars ($50.00), at the discretion of the court."

-----ANCHORAGE IN RANGE OF LIGHTHOUSES

Sec. 573. G.S. 76-43 reads as rewritten:

"*§ 76-43. Anchorage in range of lighthouses.*

If the master of any vessel shall anchor on the range line of any range of lights established by the United States Lighthouse Board, unless such anchorage is unavoidable, he shall be guilty of a Class 3 misdemeanor, and punished only by a fine not to exceed fifty dollars ($50.00)."

-----ACTING AS PILOT WITHOUT LICENSE

Sec. 574. G.S. 76-47 reads as rewritten:

"*§ 76-47. Acting as pilot without license.*

If any person shall act as a pilot, who is not qualified and licensed in the manner prescribed in this Chapter, he shall be guilty of a Class 3 ~~misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) and not less than twenty-five dollars ($25.00), or imprisoned not more than 30 days at the discretion of the court;~~ misdemeanor: Provided, that should there be no licensed pilot in attendance, any person may conduct into port any vessel in danger from stress of weather or in a leaky condition."

-----RAFTS TO EXERCISE CARE IN PASSING BUOYS, ETC., PENALTY

Sec. 575. G.S. 76-57 reads as rewritten:

"*§ 76-57. Rafts to exercise care in passing buoys, etc., penalty.*

If any person having charge of any raft passing any buoy, beacon, or day mark, shall not exercise due diligence in keeping clear of it, or, if unavoidably fouling it, shall not exercise due diligence in clearing it, without dragging from its position such buoy, beacon, or day mark, he shall be guilty of a Class 3 misdemeanor, and punished only by a fine not to exceed fifty dollars ($50.00)."

-----INTERFERING WITH BUOYS, BEACONS, AND DAY MARKS

Sec. 576. G.S. 76-58 reads as rewritten:

"*§ 76-58. Interfering with buoys, beacons, and day marks.*

If any person shall moor any kind of vessel, or any raft or any part of a raft, to any buoy, beacon, or day mark placed in the waters of North Carolina by the authority of the United States Lighthouse Board, or shall in any manner hang on with any vessel or raft, or part

of a raft, to any such buoy, beacon, or day mark, or shall willfully remove, damage, or destroy any such buoy, beacon, or day mark, or shall cut down, remove, damage, or destroy any beacon erected on land in this State by the authority of the said United States Lighthouse Board, or through unavoidable accident run down, drag from its position, or in any way injure any buoy, beacon, or day mark, as aforesaid, and shall fail to give notice as soon as practicable of having done so, to the lighthouse inspector of the district in which said buoy, beacon, or day mark may be located, or to the collector of the port, or, if in charge of a pilot, to the collector of the port from which he comes, he shall for every such offense be guilty of a ~~misdemeanor and shall be punished by a fine not to exceed two hundred dollars ($200.00), or imprisoned not to exceed three months, or both, at the discretion of the court.~~ Class 2 misdemeanor."

-----COMPULSORY USE OF PILOTS ON THE CAPE FEAR RIVER

Sec. 577. G.S. 76A-16 reads as rewritten:

"§ *76A-16. Compulsory use of pilots.*

Every foreign vessel and every U.S. vessel sailing under register, including such vessels towing or being towed when underway in the Cape Fear River and Bar and over 60 gross tons, shall employ and take a State-licensed pilot, except when maneuvering during berthing or unberthing operations, shifting within the confine of ports or terminals, passing through bridges, with tug assistance and with a docking master aboard the vessel. Any master of a vessel violating this section shall be guilty of a Class 1 misdemeanor except as provided for in G.S. 76A-18 ~~and upon conviction the master shall be fined, imprisoned, or both within the discretion of the courts~~."

-----COMPULSORY USE OF PILOTS ON MOREHEAD CITY HARBOR

Sec. 578. G.S. 76A-46 reads as rewritten:

"§ *76A-46. Compulsory use of pilots.*

Every foreign vessel and every United States vessel sailing under register, including such vessels towing or being towed when underway or docking in the the waters of the Morehead City Harbor and Beaufort Bar, either incoming or outgoing, and over 60 gross tons, shall employ and utilize a State licensed pilot. Every foreign vessel sailing including such vessels towing or being towed when underway or docking in the Morehead City to Aurora water route, and over 60 gross tons, shall employ and utilize a State licensed pilot. Any master of a vessel violating this section by failing to use a State licensed pilot shall be guilty of a Class 1 misdemeanor except as provided for in G.S. 76A-54 ~~and upon conviction, the master shall be fined, imprisoned, or both within the discretion of the courts~~."

-----FAILURE OF OWNER OF DAM TO KEEP GATES, ETC.

Sec. 579. G.S. 77-7 reads as rewritten:

"*§ 77-7. Failure of owner of dam to keep gates, etc.*

If any owner or keeper of a mill, whose dam is across any stream, shall fail to build a gate and slope therein, or thereafter to keep and maintain the same as required by commissioners to lay off rivers and creeks, he shall be guilty of a Class 1 misdemeanor."

-----OBSTRUCTING PASSAGE OF BOATS

Sec. 580. G.S. 77-12 reads as rewritten:

"*§ 77-12. Obstructing passage of boats.*

If any person shall obstruct the free passage of boats along any river or creek, by felling trees, or by any other means whatever, he shall be guilty of a Class 1 misdemeanor."

-----OBSTRUCTING STREAMS A MISDEMEANOR

Sec. 581. G.S. 77-13 reads as rewritten:

"*§ 77-13. Obstructing streams a misdemeanor.*

If any person, firm, or corporation shall fell any tree, or put any obstruction, except for the purposes of utilizing water as a motive power, in any branch, creek, stream, or other natural passage for water, whereby the natural flow of water through such passage is lessened or retarded, or whereby the navigation of such stream may be impeded, delayed, or prevented, the person, firm, or corporation so offending shall be guilty of a ~~misdemeanor, and fined not to exceed five hundred dollars ($500.00), or imprisoned not to exceed six months, or both, in the discretion of the court.~~ Class 2 misdemeanor. In addition to any fine or imprisonment imposed, the court may, in its discretion, order the person, firm, or corporation so offending to remove the obstruction and restore the affected waterway to an undisturbed condition, or allow authorized employees of the enforcing agency to enter upon the property and accomplish the removal of the obstruction and the restoration of the waterway to an undisturbed condition, in which case the costs of the removal and restoration shall be paid to the enforcing agency by the offending party. Nothing in this section shall prevent the erection of fish dams or hedges across any stream which do not extend across more than two thirds of its width at the point of obstruction. If the fish dams or hedges extend more than two thirds of the width of any stream, the said penalties shall attach. This section may be enforced by marine fisheries inspectors and wildlife protectors. Within the bounds of any county or municipality, this section may also be enforced by any law enforcement officer having territorial jurisdiction, or by the county engineer. This section may also be enforced by specially commissioned forest law-enforcement officers of the Department of Environment, Health, and Natural Resources for offenses occurring in

woodlands. For purposes of this section, the term 'woodlands' means all forested areas, including swamp and timber lands, cutover lands, and second-growth stands in previously cultivated sites."

-----OBSTRUCTIONS IN STREAMS AND DRAINAGE DITCHES

Sec. 582. G.S. 77-14 reads as rewritten:

"§ *77-14. Obstructions in streams and drainage ditches.*

If any person, firm or corporation shall fell any tree or put any slabs, stumpage, sawdust, shavings, lime, refuse or any other substances in any creek, stream, river or natural or artificial drainage ravine or ditch, or in any other outlet which serves to remove water from any land whatsoever whereby the drainage of said land is impeded, delayed or prevented, the person, firm or corporation so offending shall be guilty of a Class 2 misdemeanor ~~and upon conviction thereof shall be fined up to five hundred dollars ($500.00) or imprisoned for up to six months, or both, in the discretion of the court~~: Provided, however, nothing herein shall prevent the construction of any dam or weir not otherwise prohibited by any valid local or State statute or regulation. In addition to any fine or imprisonment imposed, the court may, in its discretion, order the person, firm, or corporation so offending to remove the obstruction and restore the affected waterway to an undisturbed condition, or allow authorized employees of the enforcing agency to enter upon the property and accomplish the removal of the obstruction and the restoration of the waterway to an undisturbed condition, in which case the costs of the removal and restoration shall be paid to the enforcing agency by the offending party. This section may be enforced by marine fisheries inspectors and wildlife protectors. Within the boundaries of any county or municipality this section may also be enforced by any law enforcement officer having territorial jurisdiction, or by the county engineer. This section may also be enforced by specially commissioned forest law-enforcement officers of the Department of Environment, Health, and Natural Resources for offenses occurring in woodlands. For purposes of this section, the term 'woodlands' means all forested areas, including swamp and timber lands, cutover lands and second-growth stands on previously cultivated sites."

-----REGULATIONS FOR LAKE WYLIE

Sec. 583. G.S. 77-37(b) reads as rewritten:

"(b) Violation of any regulation of the Commission commanding or prohibiting an act is a ~~misdemeanor punishable by a fine not to exceed two hundred dollars or 30 days imprisonment.~~ Class 3 misdemeanor."

-----FRAUDULENT USE OF TIMBER TRADEMARK

Sec. 584. G.S. 80-20 reads as rewritten:

"§ *80-20. Fraudulent use of timber trademark, misdemeanor.*

If any person shall use or attempt to use any timber trademark without the written consent of the proprietor thereof, or falsely and fraudulently place any trademark on timber not the property of the owner of such trademark without his written consent, or intentionally and without lawful authority remove, deface or destroy any timber trademark or the imprint thereof on any timber or intentionally put any such timber in such a position or place so remote from the stream from which it was taken or on which it was afloat as to render it inconvenient or unnecessarily expensive to replace the same in such stream, he shall be guilty of a Class 1 misdemeanor."

-----ALTERING TIMBER TRADEMARK CRIME

Sec. 585. G.S. 80-22 reads as rewritten:

"*§ 80-22. Altering timber trademark crime.*

If any person shall willfully change, alter, erase or destroy any registered timber mark or brand put or cut upon any logs, timber, lumber or boards, except by the consent of the owner thereof, with intent to steal the said logs or timber, he shall be guilty of a ~~misdemeanor, and punished by a fine of not more than fifty dollars ($50.00) or imprisoned not more than 30 days, or both.~~ Class 3 misdemeanor."

-----POSSESSION OF BRANDED LOGS WITHOUT CONSENT, MISDEMEANOR

Sec. 586. G.S. 80-23 reads as rewritten:

"*§ 80-23. Possession of branded logs without consent, misdemeanor.*

If any person shall knowingly and willfully take up or have in his possession any log, timber, lumber or board upon which a registered timber mark or brand has been put or cut, except by the consent of the owner thereof, he shall be guilty of a ~~misdemeanor, and punished by a fine of not more than fifty dollars ($50.00) or imprisoned not more than 30 days, or both.~~ Class 3 misdemeanor."

-----MARKING GOLD ARTICLES REGULATED

Sec. 587. G.S. 80-40 reads as rewritten:

"*§ 80-40. Marking gold articles regulated.*

It shall be unlawful to make for sale, or sell, or offer to sell or dispose of, or have in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of gold or any alloy of gold, and having stamped, branded, engraved or imprinted thereon, or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which the article is enclosed, any mark indicating or designed to indicate that the gold, or alloy of gold, therein is of a greater degree of fineness than its actual fineness, unless the actual fineness, in the case of flatware and watchcases, is not less by more than three one-thousandths parts, and in the case of all other articles is not less by more than one-half karat than the

fineness indicated, according to the standards and subject to the qualifications hereinafter set forth.

In any test for ascertaining the fineness of gold or alloy in the articles, according to the required standards, the part of the gold or alloy taken for the test, analysis or assay shall be a part not containing or having attached thereto any solder or alloy of inferior fineness used for brazing or uniting the parts of the articles. In addition to the foregoing tests and standards, the actual fineness of the entire quantity of gold and of its alloys contained in any article mentioned in this section (except watchcases), including all solder or alloy of inferior metal used for brazing or uniting the parts (all such gold, alloys, and solder being assayed as one piece), shall not be less by more than one karat than the fineness indicated by the mark used as above indicated. Violation of this section is a ~~misdemeanor, punishable as provided in this Article.~~ Class 1 misdemeanor."

-----MARKING SILVER ARTICLES REGULATED

Sec. 588. G.S. 80-41 reads as rewritten:

"*§ 80-41. Marking silver articles regulated.*

It shall be unlawful to make for sale or sell or offer to sell or dispose of or have in possession with intent to sell or dispose of --

(1) Any article of merchandise made in whole or in part of silver of any alloy of silver, and having marked, stamped, branded or engraved or imprinted thereon, or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which the article is enclosed, the words 'sterling silver' or 'sterling' or any colorable imitation thereof, unless nine hundred and twenty-five one-thousandths of the component parts of the metal appearing or purporting to be silver, of which the article is manufactured, are pure silver, subject to the qualifications hereinafter set forth: Provided, that in the case of all such articles there shall be allowed a divergence in fineness of four one-thousandths parts from the foregoing standard.

(2) Any article of merchandise made in whole or in part of silver or of any alloy of silver, and having marked, stamped, branded, engraved or imprinted thereon, or upon any card, tag or label attached thereto, or upon any box, package, cover or wrapper in which the article is enclosed, the words 'coin' or 'coin silver,' or any colorable imitation thereof, unless nine hundred one-thousandths of the component parts of the metal appearing or purporting to be silver, of which the article is manufactured, are pure silver, subject to the qualifications hereinafter set forth: Provided, that in the case of all such articles there shall be allowed a divergence in fineness of four one-thousandths parts from the foregoing standards.

(3) Any article of merchandise made in whole or in part of silver or of any alloy of silver, and having stamped, branded, engraved or

imprinted thereon, or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which the article is enclosed, any mark or word (other than the word 'sterling' or the word 'coin') indicating, or designed to indicate, that the silver or alloy of silver in the article is of a greater degree of fineness than its actual fineness, unless the actual fineness is not less by more than four one-thousandths parts than the actual fineness indicated by the use of such mark or word, subject to the qualifications hereinafter set forth.

In any test for ascertaining the fineness of the articles mentioned in this section, according to the foregoing standards, the part taken for test, analysis or assays shall be a part not containing or having attached thereto any solder or alloy of inferior metal used for brazing or uniting the parts of such article. In addition to the foregoing test and standards, the actual fineness of the entire quantity of metal purporting to be silver contained in any article mentioned in this section, including all solder or alloy of inferior fineness used for brazing or uniting the parts (all such silver, alloy or solder being assayed as one piece), shall not be less by more than ten one-thousandths parts than the fineness indicated according to the foregoing standards, by the mark employed as above indicated. Violation of this section is a ~~misdemeanor, punishable as provided in this Article.~~ Class 1 misdemeanor."

-----MARKING ARTICLES OF GOLD PLATE REGULATED

Sec. 589. G.S. 80-42 reads as rewritten:

"*§ 80-42. Marking articles of gold plate regulated.*

It shall be unlawful to make for sale, or sell, or offer to sell or dispose of, or have in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal, having deposited or plated thereon or brazed or otherwise affixed thereto a plate, plating, covering or sheet of gold, or of any alloy of gold, which article is known in the market as 'rolled gold plate,' 'gold plate,' 'gold-filled,' or 'gold electroplate,' or by any similar designation, and having stamped, branded, engraved or imprinted thereon, or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which the article is enclosed, any word or mark usually employed to indicate the fineness of gold, unless such word be accompanied by other words plainly indicating that such article or some part thereof is made of rolled gold plate, or gold plate, or gold electroplate, or is gold-filled, as the case may be. Violation of this section is a ~~misdemeanor, punishable as provided in this Article.~~ Class 1 misdemeanor."

-----MARKING ARTICLES OF SILVER PLATE REGULATED

Sec. 590. G.S. 80-43 reads as rewritten:

"*§ 80-43. Marking articles of silver plate regulated.*

It shall be unlawful to make for sale, or sell, or offer to sell or dispose of, or have in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal, having deposited or plated thereon or brazed or otherwise affixed thereto, a plate, plating, covering or sheet of silver or of any alloy of silver, which article is known in the market as 'silver plate' or 'silver electroplate,' or by any similar designation, and having stamped, branded, engraved or imprinted thereon, or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which the article is enclosed, the word 'sterling' or the word 'coin,' either alone or in conjunction with any other words or marks. Violation of this section is a ~~misdemeanor, punishable as provided in this Article.~~ Class 1 misdemeanor."

-----STAMPING OF GOLD AND SILVER ARTICLES

Sec. 591. G.S. 80-44 reads as rewritten:

"§ *80-44. Violation of Article misdemeanor.*

Every person, firm, corporation or association guilty of a violation of any one of the preceding sections of this Article, and every officer, manager, director or managing agent of any such person, firm, corporation or association directly participating in such violation or consenting thereto, shall be guilty of a Class 1 misdemeanor ~~and punished by fine or imprisonment, or both, at the discretion of the court~~: Provided, that if the person charged with violation of this Article shall prove that the article concerning which the charge was made was manufactured prior to June 13, 1907, then the charge shall be dismissed."

-----REGULATION AND PROTECTION OF LIVESTOCK BRANDS

Sec. 592. G.S. 80-66 reads as rewritten:

"§ *80-66. Violation a misdemeanor.*

Any person who violates any provision of this Article or any rule or regulation of the Board promulgated hereunder shall be guilty of a ~~misdemeanor and upon conviction thereof fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or imprisoned for not more than 60 days, or both fined and imprisoned, in the discretion of the court.~~ Class 2 misdemeanor."

-----WEIGHTS AND MEASURES ACT OF 1975

Sec. 593. G.S. 81A-29 reads as rewritten:

"§ *81A-29. Offenses and penalties.*

Any person who violates any provision of this section or any provision of this Chapter or regulations promulgated pursuant thereto for which a specific penalty has not been prescribed shall be guilty of a Class 2 misdemeanor~~, and~~ upon a first conviction. ~~thereof shall be punished by a fine of not less than fifty dollars ($50.00) or more than five hundred dollars ($500.00), or by imprisonment for not more than~~

~~three months, or both.~~ Upon a subsequent conviction thereof, said person shall be ~~punished by a fine of not less than one hundred dollars ($100.00) or more than one thousand dollars ($1,000) or by imprisonment for up to one year, or both.~~ guilty of a Class 1 misdemeanor. No person shall:

(1) Use or have in possession for use in commerce any incorrect weight or measure.

(2) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the Commissioner or his authorized agent.

(3) Hinder or obstruct any weights-and-measures official in the performance of his duties.

(4) Impersonate in any way any employee of the North Carolina Department of Agriculture designated by the Commissioner to enforce any part of this Chapter.

(5) Use in retail trade, except in the preparation of packages put up in advance of sale, a weighing or measuring device which is not so positioned so that its indications may be accurately read and the weighing or measuring operation observed from some position which may be reasonably assumed by a customer.

(6) Manufacture, use or possess a counterfeit seal, tag, mark, certificate, label or decal representing, imitating or copying the same issued by the Commissioner under this Chapter."

-----REGISTRATION OF SCALE TECHNICIAN

Sec. 594. G.S. 81A-80(b) reads as rewritten:

"(b) Any person who violates any provision of this Article shall be guilty of a ~~misdemeanor and upon conviction shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or imprisoned for not more than three months or be fined and imprisoned.~~ Class 2 misdemeanor."

-----ARCHITECTS

Sec. 595. G.S. 83A-16(a) reads as rewritten:

"(a) Any individual or corporation not registered under this Chapter, who shall wrongfully use the title 'Architect' or represent himself or herself to the public as an architect, or practice architecture as herein defined, or seek to avoid the provisions of this Chapter by the use of any other designation than 'Architect': (i) shall be guilty of a Class 2 misdemeanor ~~and shall upon conviction be sentenced to pay a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), or suffer imprisonment for a period not exceeding three months or both such fine and imprisonment~~; and (ii) be subject to a civil penalty not to exceed five hundred dollars ($500.00) per day of such violation. Each day of such unlawful

practice shall constitute a distinct and separate violation. Any civil penalty collected hereunder shall be deposited to the General Fund."

-----PERSONS DISQUALIFIED FROM THE PRIVATE PRACTICE OF LAW

Sec. 596. G.S. 84-2 reads as rewritten:

"*§ 84-2. Persons disqualified.*

No justice, judge, full-time district attorney, full-time assistant district attorney, public defender, assistant public defender, clerk, deputy or assistant clerk of the General Court of Justice, nor register of deeds, nor sheriff, shall engage in the private practice of law. Persons violating this provision shall be guilty of a Class 3 misdemeanor and only fined not less than two hundred dollars ($200.00)."

-----QUALIFICATIONS OF ATTORNEYS; CLINICS OF LAW SCHOOLS

Sec. 597. G.S. 84-8 reads as rewritten:

"*§ 84-8. Punishment for violations; legal clinics of law schools excepted.*

Any person, corporation, or association of persons violating the provisions of G.S. 84-4 to 84-8 shall be guilty of a ~~misdemeanor and punished by a fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor. Provided, that G.S. 84-4 to 84-8 shall not apply to any law school or law schools conducting a legal clinic and receiving as their clientage only those persons unable financially to compensate for legal advice or services rendered."

-----ATTORNEY MUST APPEAR FOR CREDITOR IN INSOLVENCY

Sec. 598. G.S. 84-10 reads as rewritten:

"*§ 84-10. Violation of § 84-9 a misdemeanor.*

Any individual, corporation, or firm or other association of persons violating any provision of G.S. 84-9 shall be guilty of a Class 1 misdemeanor."

-----SOLICITATION OF RETAINER OR CONTRACT FOR LEGAL SERVICES

Sec. 599. G.S. 84-38 reads as rewritten:

"*§ 84-38. Solicitation of retainer or contract for legal services prohibited; division of fees.*

It shall be unlawful for any person, firm, corporation, or association or his or their agent, agents, or employees, acting on his or their behalf, to solicit or procure through solicitation either directly or indirectly, any legal business, whether to be performed in this State or elsewhere, or to solicit or procure through solicitation either directly or indirectly, a retainer or contract, written or oral, or any agreement authorizing an attorney or any other person, firm,

corporation, or association to perform or render any legal services, whether to be performed in this State or elsewhere.

It shall be unlawful for any person, firm, corporation, or association to divide with or receive from any attorney-at-law, or group of attorneys-at-law, whether practicing in this State or elsewhere, either before or after action is brought, any portion of any fee or compensation charged or received by such attorney-at-law, or any valuable consideration or reward, as an inducement for placing or in consideration of being placed in the hands of such attorney or attorneys-at-law, or in the hands of another person, firm, corporation or association, a claim or demand of any kind, for the purpose of collecting such claim or instituting an action thereon or of representing claimant in the pursuit of any civil remedy for the recovery thereof, or for the settlement or compromise thereof, whether such compromise, settlement, recovery, suit, claim, collection or demand shall be in this State or elsewhere. This paragraph shall not apply to agreements between attorneys to divide compensation received in cases or matters legitimately, lawfully and properly received by them.

Any person, firm, corporation or association of persons violating the provisions of this section shall be guilty of a ~~misdemeanor and punished by fine or imprisonment or both in the discretion of the court.~~ Class 1 misdemeanor.

The council of the North Carolina State Bar is hereby authorized and empowered to investigate and bring action against persons charged with violations of this section and the provisions as set forth in G.S. 84-37 shall apply. Nothing contained herein shall be construed to supersede the authority of district attorneys to seek injunctive relief or institute criminal proceedings in the same manner as provided for in G.S. 84-7. Nothing herein shall be construed as abridging the inherent powers of the courts to deal with such matters."

-----AUCTIONEER LICENSES

Sec. 600. G.S. 85B-9(a) reads as rewritten:

"(a) Any person, corporation or association of persons violating the provisions of G.S. 85B-4(a) shall be guilty of a ~~misdemeanor and shall be punished by fine, or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----BARBERS CERTIFICATES AND REGISTRATION

Sec. 601. G.S. 86A-20 reads as rewritten:

"*§ 86A-20. Misdemeanors.*

Each of the following acts constitutes a ~~misdemeanor, punishable upon conviction by a fine of not less than ten dollars ($10.00), nor more than fifty dollars ($50.00), imprisonment for 30 days in jail, or both fine and imprisonment;~~ Class 3 misdemeanor:

(1) Violation of any of the provisions of G.S. 86A-1;
(2) Obtaining or attempting to obtain a certificate of registration for money other than the required fee or any other thing of value, or by fraudulent misrepresentations;
(3) Practicing or attempting to practice by fraudulent misrepresentations;
(4) Willful failure to display a certificate of registration as required by G.S. 86A-16;
(5) Practicing or attempting to practice barbering during the period of suspension or revocation of any certificate of registration granted under this Chapter. Each day's operation during a period of suspension or revocation shall be deemed a separate offense;
(6) Permitting any person in one's employ, supervision or control to practice as a barber unless that person holds a certificate as a registered barber or registered apprentice."

-----UNAUTHORIZED PRACTICE OF CONTRACTING

Sec. 602. G.S. 87-13 reads as rewritten:

"*§ 87-13. Unauthorized practice of contracting; impersonating contractor; false certificate; giving false evidence to Board; penalties.*

Any person, firm, or corporation not being duly authorized who shall contract for or bid upon the construction of any of the projects or works enumerated in G.S. 87-1, without having first complied with the provisions hereof, or who shall attempt to practice general contracting in the State, except as provided for in this Article, and any person, firm, or corporation presenting or attempting to file as his own the licensed certificate of another or who shall give false or forged evidence of any kind to the Board or to any member thereof in maintaining a certificate of license or who falsely shall impersonate another or who shall use an expired or revoked certificate of license, and any architect or engineer who recommends to any project owner the award of a contract to anyone not properly licensed under this Article, shall be deemed guilty of a ~~misdemeanor and shall for each such offense of which he is convicted be punished by a fine of not less than five hundred dollars ($500.00) or imprisonment of three months, or both fine and imprisonment in the discretion of the court.~~ Class 2 misdemeanor. And the Board may, in its discretion, use its funds to defray the expense, legal or otherwise, in the prosecution of any violations of this Article. No architect or engineer shall be guilty of a violation of this section if his recommendation to award a contract is made in reliance upon current written information received by him from the appropriate Contractor Licensing Board of this State which information erroneously indicates that the contractor being recommended for contract award is properly licensed."

-----REGULATIONS AS TO ISSUE OF BUILDING PERMITS

Sec. 603. G.S. 87-14 reads as rewritten:

"*§ 87-14. Regulations as to issue of building permits.*

Any person, firm or corporation, upon making application to the building inspector or such other authority of any incorporated city, town or county in North Carolina charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, grading or any improvement or structure where the cost thereof is to be thirty thousand dollars ($30,000) or more, shall, before he be entitled to the issuance of such permit, furnish satisfactory proof to such inspector or authority that he or another person contracting to superintend or manage the construction is duly licensed under the terms of this Article to carry out or superintend the same, and that he has paid the license tax required by the Revenue Act of the State of North Carolina then in force so as to be qualified to bid upon or contract for the work for which the permit has been applied, and that he has in effect Workers' Compensation insurance as required by Chapter 97 of the General Statutes; and it shall be unlawful for such building inspector or other authority to issue or allow the issuance of such building permit unless and until the applicant has furnished evidence that he is either exempt from the provisions of this Article or is duly licensed under this Article to carry out or superintend the work for which permit has been applied; and further, that the applicant has paid the license tax required by the State Revenue Act then in force so as to be qualified to bid upon or contract for the work covered by the permit; and further, that the applicant has in effect Workers' Compensation insurance as required by Chapter 97 of the General Statutes. Any building inspector or other such authority who is subject to and violates the terms of this section shall be guilty of a Class 3 misdemeanor and subject only to a fine of not more than fifty dollars ($50.00)."

-----PLUMBING, HEATING AND FIRE SPRINKLING CONTRACTORS

Sec. 604. G.S. 87-25 reads as rewritten:

"*§ 87-25. Violations made misdemeanor; employees of licensees excepted.*

Any person, firm or corporation who shall engage in or offer to engage in, or carry on the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof, as defined in G.S. 87-21, without first having been licensed to engage in such business, or businesses, as required by the provisions of this Article; or any person, firm or corporation holding a limited plumbing or heating license under the provisions of this Article who shall practice or offer to practice or carry on any type of plumbing or heating contracting not

authorized by said limited license; or any person, firm or corporation who shall give false or forged evidence of any kind to the Board, or any member thereof, in obtaining a license, or who shall falsely impersonate any other practitioner of like or different name, or who shall use an expired or revoked license, or who shall violate any of the provisions of this Article, shall be guilty of a ~~misdemeanor and upon conviction fined not less than one hundred dollars ($100.00) or imprisoned for not more than three months, or both, in the discretion of the court.~~ Class 2 misdemeanor. An employee in the course of his work as a bona fide employee of a licensee of the Board shall not be construed to have engaged in the business of plumbing, heating, or fire sprinkler contracting, as the case may be."

-----POWERS OF BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

Sec. 605. G.S. 87-42 reads as rewritten:

"*§ 87-42. Duties and powers of Board.*

In order to protect the life, health and property of the public, the State Board of Examiners of Electrical Contractors shall provide for the written examination of all applicants for certification as a qualified individual, as defined in G.S. 87-41.1. The Board shall receive all applications for certification as a qualified individual and all applications for licenses to be issued under this Article, shall examine all applicants to determine that each has met the requirements for certification and shall discharge all duties enumerated in this Article. Applicants for certification as a qualified individual must be at least 18 years of age and shall be required to demonstrate to the satisfaction of the Board their good character and adequate technical and practical knowledge concerning the safe and proper installation of electrical work and equipment. The examination to be given for this purpose shall include, but not be limited to, the appropriate provisions of the National Electrical Code as incorporated in the North Carolina State Building Code, the analysis of electrical plans and specifications, estimating of electrical installations, and the fundamentals of the installation of electrical work and equipment. Certification of qualified individuals shall be issued in the same classifications as provided in this Article for license classifications. The Board shall prescribe the standards of knowledge, experience and proficiency to be required of qualified individuals, which may vary for the various license classifications. The Board shall issue certifications and licenses to all applicants meeting the requirements of this Article and of the Board upon the receipt of the fees prescribed by G.S. 87-44. The Board shall have power to make rules and regulations necessary to the performance of its duties and for the effective implementation of the provisions of this Article. The Board shall have the power to

administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the Chairman for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor. The Board shall keep minutes of all its proceedings and shall keep an accurate record of receipts and disbursements which shall be audited at the close of each fiscal year by a certified public accountant, and the audit report shall be filed with the State of North Carolina in accordance with Chapter 93B of the General Statutes."

-----ELECTRICAL CONTRACTORS

Sec. 606. G.S. 87-48(a) reads as rewritten:

"(a) Any person, partnership, firm or corporation who shall violate any of the provisions of this Article or any rule of the Board adopted pursuant to this Article or who shall engage or offer to engage in the business of installing, maintaining, altering or repairing within the State of North Carolina any electric wiring, devices, appliances or equipment without first having obtained a license under the provisions of this Article shall be guilty of a ~~misdemeanor and upon conviction thereof shall, for each offense, be subject to a fine of not more than three hundred dollars ($300.00) or imprisonment for not more than three months or both.~~ Class 2 misdemeanor."

-----REFRIGERATION CONTRACTING

Sec. 607. G.S. 87-61 reads as rewritten:

"§ *87-61. Violations made misdemeanor; employees of licensees excepted.*

Any person, firm or corporation who shall engage in or offer to engage in, or carry on the business of refrigeration contracting as defined in this Article, without first having been licensed to engage in such business, or businesses, as required by the provisions of this Article; or any person, firm or corporation holding a refrigeration license under the provisions of this Article who shall practice or offer to practice or carry on any type of refrigeration contracting not authorized by said license; or any person, firm or corporation who shall give false or forged evidence of any kind to the Board, or any member thereof, in obtaining a license, or who shall falsely impersonate any other practitioner of like or different name, or who shall use an expired or revoked license, or who shall violate any of the provisions of this Article, shall be guilty of a ~~misdemeanor and upon~~

~~conviction fined not less than one hundred dollars ($100.00) or imprisoned for not more than three months, or both, in the discretion of the court.~~ Class 2 misdemeanor. Employees, while working under the supervision and jurisdiction of a person, firm or corporation licensed in accordance with the provisions of this Article, shall not be construed to have engaged in the business of refrigeration contracting."

-----COSMETOLOGY PRACTICE

Sec. 608. G.S. 88-28 reads as rewritten:

"*§ 88-28. Acts made misdemeanors.*

Each of the following constitutes a ~~misdemeanor punishable upon conviction by a fine of not less than twenty-five dollars ($25.00) and not more than one hundred dollars ($100.00), or up to 30 days in jail, or both:~~ Class 3 misdemeanor:

(1) The violation of any of the provisions of G.S. 88-1.

(2) Permitting any person in one's employ, supervision, or control to practice as an apprentice unless that person has a certificate of registration as a registered apprentice.

(3) Permitting any person in one's employ, supervision, or control, to practice as a cosmetologist unless that person has a certificate as a registered cosmetologist.

(3a) Employing or permitting any person in one's employ, supervision, or control, to engage in the practice of cosmetic art under an invalid temporary employment permit.

(4) Obtaining, or attempting to obtain, a certificate of registration for money other than the required fee or any other thing of value, or by fraudulent misrepresentations.

(5) Practicing or attempting to practice by fraudulent misrepresentations.

(6) The willful failure to display a certificate of registration as required by G.S. 88-24.

(7) The willful violation of the reasonable rules and regulations adopted by the State Board of Cosmetic Art Examiners."

-----ELECTROLYSIS PRACTICE

Sec. 609. G.S. 88A-4(b) reads as rewritten:

"(b) Any violation of this Chapter shall be a ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), or imprisonment for not more than 60 days, or both.~~ Class 2 misdemeanor."

-----REGISTRATION OF LANDSCAPE ARCHITECTS

Sec. 610. G.S. 89A-8(a) reads as rewritten:

"(a) It shall be a Class 1 misdemeanor for any person to use, or to hold himself out as entitled to practice under, the title of landscape

architect or landscape architecture unless he is duly registered under the provisions of this Chapter."

-----REGISTRATION OF FORESTERS

Sec. 611. G.S. 89B-15 reads as rewritten:

"*§ 89B-15. Violation and penalties.*

Any person who, without being registered in accordance with the provisions of this Chapter, shall use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a registered forester; or any person who shall give any false or forged information of any kind to the Board or to any member thereof in obtaining a certificate of registration; or any person, firm, partnership or corporation who shall violate any of the provisions of this Chapter shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined not more than fifty dollars ($50.00), or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----ENGINEERING OR LAND SURVEYING WITHOUT REGISTRATION

Sec. 612. G.S. 89C-23 reads as rewritten:

"*§ 89C-23. Unlawful to practice engineering or land surveying without registration; unlawful use of title or terms; penalties; Attorney General to be legal adviser.*

Any person who shall practice, or offer to practice, engineering or land surveying in this State without first being registered in accordance with the provisions of this Chapter, or any person, firm, partnership, organization, association, corporation, or other entity using or employing the words 'engineer' or 'engineering' or 'professional engineer' or 'professional engineering' or 'land surveyor' or 'land surveying,' or any modification or derivative thereof in its name or form of business or activity except as registered under this Chapter or in pursuit of activities exempted by this Chapter, or any person presenting or attempting to use the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the Board or to any member thereof in obtaining or attempting to obtain a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked or nonexistent certificate of registration, or who shall practice or offer to practice when not qualified, or any person who falsely claims that he is registered under this Chapter, or any person who shall violate any of the provisions of this Chapter, in addition to injunctive procedures set out hereinbefore, shall be guilty of a ~~misdemeanor, and may, upon conviction, be sentenced to pay a fine of not less than one hundred dollars ($100.00), nor more than~~

~~one thousand dollars ($1,000), or suffer imprisonment for a period not exceeding three months, or both, in the discretion of the court.~~ Class 2 misdemeanor. In no event shall there be representation of or holding out to the public of any engineering expertise by unregistered persons. It shall be the duty of all duly constituted officers of the State and all political subdivisions thereof to enforce the provisions of this Chapter and to prosecute any persons violating same.

The Attorney General of the State or his assistant shall act as legal adviser to the Board and render such legal assistance as may be necessary in carrying out the provisions of this Chapter. The Board may employ counsel and necessary assistance to aid in the enforcement of this Chapter, and the compensation and expenses therefor shall be paid from funds of the Board."

-----LICENSE TO PRACTICE GEOLOGY

Sec. 613. G.S. 89E-22 reads as rewritten:

"*§ 89E-22. Misdemeanor.*

Any person who shall willfully practice publicly, or offer to practice publicly, geology for other natural or corporate persons in this State without being licensed in accordance with the provisions of this Chapter, or any person presenting or attempting to use as his own the license or the seal of another, or any person who shall give any false or forged evidence of any kind in obtaining a license, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall attempt to use an expired or revoked license or practice at any time during a period the Board has suspended or revoked the license, or any person who shall violate the provisions of this Chapter shall be guilty of a ~~misdemeanor; upon conviction thereof, such person shall be punishable by a fine of not more than five hundred dollars ($500.00), by imprisonment of not more than six months, or both such fine and imprisonment.~~ Class 2 misdemeanor."

-----LIMITED LICENSE TO PRACTICE MEDICINE AND SURGERY

Sec. 614. G.S. 90-12 reads as rewritten:

"*§ 90-12. Limited license.*

The Board may, whenever in its opinion the conditions of the locality where the applicant resides are such as to render it advisable, make such modifications of the requirements of G.S. 90-9, 90-10, and 90-11 as in its judgment the interests of the people living in that locality may demand, and may issue to such applicant a special license, to be entitled a 'Limited License,' authorizing the holder thereof to practice medicine and surgery within the limits only of the districts specifically described therein. The holder of the limited license practicing medicine or surgery beyond the boundaries of the

districts as laid down in said license shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each and every offense; and the Board is empowered to revoke such limited license, in its discretion, after due notice."

-----PRACTICING MEDICINE WITHOUT LICENSE

Sec. 615. G.S. 90-18 reads as rewritten:

"*§ 90-18. Practicing without license; practicing defined; penalties.*

No person shall practice medicine or surgery, or any of the branches thereof, nor in any case prescribe for the cure of diseases unless he shall have been first licensed and registered so to do in the manner provided in this Article, and if any person shall practice medicine or surgery without being duly licensed and registered, as provided in this Article, he shall not be allowed to maintain any action to collect any fee for such services. The person so practicing without license shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00), or imprisoned at the discretion of the court for each and every offense.~~ Class 1 misdemeanor.

Any person shall be regarded as practicing medicine or surgery within the meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat any human ailment, physical or mental, or any physical injury to or deformity of another person: Provided, that the following cases shall not come within the definition above recited:

(1) The administration of domestic or family remedies in cases of emergency.

(2) The practice of dentistry by any legally licensed dentist engaged in the practice of dentistry and dental surgery.

(3) The practice of pharmacy by any legally licensed pharmacist engaged in the practice of pharmacy.

(4) The practice of medicine and surgery by any surgeon or physician of the United States army, navy, or public health service in the discharge of his official duties.

(5) The treatment of the sick or suffering by mental or spiritual means without the use of any drugs or other material means.

(6) The practice of optometry by any legally licensed optometrist engaged in the practice of optometry.

(7) The practice of midwifery as defined in G.S. 90-178.2.

(8) The practice of chiropody by any legally licensed chiropodist when engaged in the practice of chiropody, and without the use of any drug.

(9) The practice of osteopathy by any legally licensed osteopath when engaged in the practice of osteopathy as defined by law, and especially G.S. 90-129.

(10) The practice of chiropractic by any legally licensed chiropractor when engaged in the practice of chiropractic as defined by law, and without the use of any drug or surgery.

(11) The practice of medicine or surgery by any reputable physician or surgeon in a neighboring state coming into this State for consultation with a resident registered physician. This proviso shall not apply to physicians resident in a neighboring state and regularly practicing in this State.

(12) Any person practicing radiology as hereinafter defined shall be deemed to be engaged in the practice of medicine within the meaning of this Article. 'Radiology' shall be defined as, that method of medical practice in which demonstration and examination of the normal and abnormal structures, parts or functions of the human body are made by use of X ray. Any person shall be regarded as engaged in the practice of radiology who makes or offers to make, for a consideration, a demonstration or examination of a human being or a part or parts of a human body by means of fluoroscopic exhibition or by the shadow imagery registered with photographic materials and the use of X rays; or holds himself out to diagnose or able to make or makes any interpretation or explanation by word of mouth, writing or otherwise of the meaning of such fluoroscopic or registered shadow imagery of any part of the human body by use of X rays; or who treats any disease or condition of the human body by the application of X rays or radium. Nothing in this subdivision shall prevent the practice of radiology by any person licensed under the provisions of Articles 2, 7, 8, and 12A of this Chapter.

(13) Any act, task or function performed by an assistant to a person licensed as a physician by the Board of Medical Examiners when

a. Such assistant is approved by and annually registered with the Board as one qualified by training or experience to function as an assistant to a physician, except that no more than two assistants may be currently registered for any physician, and

b. Such act, task or function is performed at the direction or under the supervision of such physician, in

accordance with rules and regulations promulgated by the Board, and

c. The services of the assistant are limited to assisting the physician in the particular field or fields for which the assistant has been trained, approved and registered;

Provided that this subdivision shall not limit or prevent any physician from delegating to a qualified person any acts, tasks or functions which are otherwise permitted by law or established by custom.

(14) The practice of nursing by a registered nurse engaged in the practice of nursing and the performance of acts otherwise constituting medical practice by a registered nurse when performed in accordance with rules and regulations developed by a joint subcommittee of the Board of Medical Examiners and the Board of Nursing and adopted by both boards."

-----BOARD OF DENTAL EXAMINERS

Sec. 616. G.S. 90-27 reads as rewritten:

"§ *90-27. Judicial powers; additional data for records.*

The president of the North Carolina State Board of Dental Examiners, and/or the secretary-treasurer of said Board, shall have the power to administer oaths, issue subpoenas requiring the attendance of persons and the production of papers and records before said Board in any hearing, investigation or proceeding conducted by it. The sheriff or other proper official of any county of the State shall serve the process issued by said president or secretary-treasurer of said Board pursuant to its requirements and in the same manner as process issued by any court of record. The said Board shall pay for the service of all process, such fees as are provided by law for the service of like process in other cases.

Any person who shall neglect or refuse to obey any subpoena requiring him to attend and testify before said Board or to produce books, records or documents shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor.

The Board shall have the power, upon the production of any papers, records or data, to authorize certified copies thereof to be substituted in the permanent record of the matter in which such books, records or data shall have been introduced in evidence."

-----WRITTEN WORK ORDERS OF DENTISTS; PENALTY

Sec. 617. G.S. 90-29.2(d) reads as rewritten:

"(d) Any licensed dentist who:

(1) Employs or engages the services of any person, firm or corporation to construct or repair extraorally, prosthetic

dentures, bridges, or other dental appliances without first providing such person, firm, or corporation with a written work order; or

(2) Fails to retain a duplicate copy of the work order for two years; or

(3) Refuses to allow the North Carolina State Board of Dental Examiners to inspect his files of work orders

is guilty of a Class 1 misdemeanor and the North Carolina State Board of Dental Examiners may revoke or suspend his license therefor."

Sec. 618. G.S. 90-29.2(e) reads as rewritten:

"(e) Any such person, firm, or corporation, who:

(1) Furnishes such services to any licensed dentist without first obtaining a written work order therefor from such dentist; or

(2) Acting as a subcontractor as described in (c) above, furnishes such services to any person, firm or corporation, without first obtaining a written subwork order from such person, firm or corporation; or

(3) Fails to retain the original work order or subwork order, as the case may be, for two years; or

(4) Refuses to allow the North Carolina State Board of Dental Examiners or its duly authorized agents, to inspect his or its files of work orders or subwork orders shall be guilty of a Class 1 misdemeanor."

-----UNAUTHORIZED PRACTICE OF DENTISTRY; PENALTY

Sec. 619. G.S. 90-40 reads as rewritten:

"*§ 90-40. Unauthorized practice; penalty.*

If any person shall practice or attempt to practice dentistry in this State without first having passed the examination and obtained a license from the North Carolina Board of Dental Examiners or having obtained a provisional license from said Board; or if he shall practice dentistry after March 31 of each year without applying for a certificate of renewal of license, as provided in G.S. 90-31; or shall practice or attempt to practice dentistry while his license is revoked, or suspended, or when a certificate of renewal of license has been refused; or shall violate any of the provisions of this Article for which no specific penalty has been provided; or shall practice or attempt to practice, dentistry in violation of the provisions of this Article; or shall practice dentistry under any name other than his own name, said person shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be punished by a fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor. Each day's violation of this Article shall constitute a separate offense."

-----RULES AND REGULATIONS OF BOARD OF DENTAL EXAMINERS

Sec. 620. G.S. 90-48 reads as rewritten:

"§ *90-48. Rules and regulations of Board; violation a misdemeanor.*

The North Carolina State Board of Dental Examiners shall be and is hereby vested, as an agency of the State, with full power and authority to enact rules and regulations governing the practice of dentistry within the State, provided such rules and regulations are not inconsistent with the provisions of this Article. Such rules and regulations shall become effective 30 days after passage, and the same may be proven, as evidence, by the president and/or the secretary-treasurer of the Board, and/or by certified copy under the hand and official seal of the secretary-treasurer. A certified copy of any rule or regulation shall be receivable in all courts as prima facie evidence thereof if otherwise competent, and any person, firm, or corporation violating any such rule, regulation, or bylaw shall be guilty of a Class 2 misdemeanor, ~~subject to a fine of not more than two hundred dollars ($200.00) or imprisonment for not more than 90 days for each offense,~~ and each day that this section is violated shall be considered a separate offense.

The Board shall issue every two years to each licensed dentist a compilation or supplement of the Dental Practice Act and the Board rules and regulations, and upon written request therefor by such licensed dentist, a directory of dentists."

-----PHARMACY PRACTICE ACT

Sec. 621. G.S. 90-85.40(h) reads as rewritten:

"(h) A violation of this Article shall be a ~~misdemeanor punishable in the discretion of the court,~~ Class 1 misdemeanor."

-----LICENSED PETITIONERS; CONTROLLED SUBSTANCES

Sec. 622. G.S. 90-108(b) reads as rewritten:

"(b) Any person who violates this section shall be guilty of a Class 1 misdemeanor. Provided, that if the criminal pleading alleges that the violation was committed intentionally, and upon trial it is specifically found that the violation was committed intentionally, such violations shall be a Class I felony. A person who violates subdivision (7) of subsection (a) of this section and also fortifies the structure, with the intent to impede law enforcement entry, (by barricading windows and doors) shall be punished as a Class I felon."

-----NORTH CAROLINA TOXIC VAPORS ACT

Sec. 623. G.S. 90-113.13 reads as rewritten:

"§ *90-113.13. Violation a misdemeanor.*

Violation of this Article is a Class 1 misdemeanor."

-----POSSESSION OF DRUG PARAPHERNALIA

Sec. 624. G.S. 90-113.22(b) reads as rewritten:

"(b) Violation of this section is a ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than one year, or both.~~ Class 1 misdemeanor."

-----MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA

Sec. 625. G.S. 90-113.23(c) reads as rewritten:

"(c) Violation of this section is a ~~misdemeanor punishable by a fine of not less than one thousand dollars ($1,000), imprisonment for not more than two years, or both.~~ Class 1 misdemeanor. However, delivery of drug paraphernalia by a person over 18 years of age to someone under 18 years of age who is at least three years younger than the defendant shall be punishable as a Class I felony."

-----ADVERTISEMENT OF DRUG PARAPHERNALIA

Sec. 626. G.S. 90-113.24(b) reads as rewritten:

"(b) Violation of this section is a ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----STATE BOARD OF EXAMINERS OF OPTOMETRY

Sec. 627. G.S. 90-117.4 reads as rewritten:

"*§ 90-117.4. Judicial powers; additional data for records.*

The president of the North Carolina State Board of Examiners in Optometry, and/or the secretary-treasurer of said Board, shall have the power to administer oaths, issue subpoenas requiring the attendance of persons and the production of papers and records before said Board in any hearing, investigation or proceeding conducted by it. The sheriff or other proper official of any county of the State shall serve the process issued by said president or secretary-treasurer of said Board pursuant to its requirements and in the same manner as process issued by any court of record. The said Board shall pay for the service of all process, such fees as are provided by law for the service of like process in other cases.

Any person who shall neglect or refuse to obey any subpoena requiring him to attend and testify before said Board or to produce books, records or documents shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor.

The Board shall have the power, upon the production of any papers, records or data, to authorize certified copies thereof to be substituted in the permanent record of the matter in which such books, records or data shall have been introduced in evidence."

-----UNAUTHORIZED PRACTICE OF OPTOMETRY

Sec. 628. G.S. 90-118.11 reads as rewritten:

"*§ 90-118.11. Unauthorized practice; penalty for violation of Article.*

If any person shall practice or attempt to practice optometry in this State without first having passed the examination and obtained a license from the North Carolina State Board of Examiners in Optometry; or without having obtained a provisional license from said Board; or if he shall practice optometry after March 31 of each year without applying for a certificate of renewal of license, as provided in G.S. 90-118.10; or shall practice or attempt to practice optometry while his license is revoked, or suspended, or when a certificate of renewal of license has been refused; or shall practice or attempt to practice optometry by means or methods that the Board has determined is beyond the scope of the person's educational training; or shall violate any of the provisions of this Article for which no specific penalty has been provided; or shall practice, or attempt to practice, optometry in violation of the provisions of this Article; or shall practice optometry under any name other than his own name, said person shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be punished by a fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor. Each day's violation of this Article shall constitute a separate offense."

-----RULES AND REGULATIONS OF BOARD OF OPTOMETRY

Sec. 629. G.S. 90-124 reads as rewritten:

"*§ 90-124. Rules and regulations of Board; violation a misdemeanor.*

Rules and regulations adopted by the Board shall become effective 30 days after passage, and the same may be proven, as evidence, by the president and/or the secretary-treasurer of the Board, and/or by certified copy under the hand and seal of the secretary-treasurer. A certified copy of any rule or regulation shall be receivable in all courts as *prima facie* evidence thereof if otherwise competent, and any person, firm, or corporation violating any such rule or regulation shall be guilty of a Class 2 misdemeanor, ~~subject to a fine of not more than two hundred dollars ($200.00) or imprisonment for not more than 90 days for each offense,~~ and each day that this section is violated shall be considered a separate offense.

The Board shall issue every two years to each licensed optometrist a compilation or supplement of the Optometric Practice Act and the Board Rules and Regulations, and upon written request by such licensed optometrist, a directory of optometrists."

-----LICENSE OF OSTEOPATHIC PHYSICIAN

Sec. 630. G.S. 90-136 reads as rewritten:

"*§ 90-136. Refusal, revocation or suspension of license; misdemeanors.*

The North Carolina State Board of Osteopathic Examination and Registration may refuse to issue a license to anyone otherwise qualified, and may suspend or revoke any license issued by it to any

osteopathic physician, who is not of good moral character, and/or for any one or any combination of the following causes:

(1) Conviction of a felony, as shown by a certified copy of the record of the court of conviction;
(2) The obtaining of or an attempt to obtain a license, or practice in the profession, or money, or any other thing of value, by fraudulent misrepresentations;
(3) Gross malpractice;
(4) Advertising by means of knowingly false or deceptive statements;
(5) Advertising, practicing, or attempting to practice under a name other than one's own;
(6) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs.

Each of the following acts constitutes a ~~misdemeanor, punishable upon conviction by a fine of not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00); or imprisonment for not less than 30 days nor more than one year, or both in the discretion of the court:~~ Class 1 misdemeanor:

(1) The practice of osteopathy or an attempt to practice osteopathy, or professing to do so without a license;
(2) The obtaining of or an attempt to obtain a license, or practice in the profession, or money, or any other thing of value by fraudulent misrepresentation;
(3) The making of any willfully false oath or affirmation whenever an oath or affirmation is required by this Article;
(4) Advertising, practicing or attempting to practice osteopathy under a name other than one's own.

The Board may neither suspend nor revoke any license, however, for any of the causes hereinabove set forth except in accordance with the provisions of Chapter 150B of the General Statutes."

-----PRACTICE OF CHIROPRACTIC WITHOUT LICENSE

Sec. 631. G.S. 90-147 reads as rewritten:

"§ *90-147. Practice without license a misdemeanor.*

Any person practicing chiropractic in this State without having first obtained a license as provided in this Article shall be guilty of a ~~misdemeanor and fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----NURSING PRACTICE ACT

Sec. 632. G.S. 90-171.45 reads as rewritten:

"§ *90-171.45. Violation of Article.*

The violation of any provision of this Article, except G.S. 90-171.47, shall be a ~~misdemeanor punishable in the discretion of the court,~~ Class 1 misdemeanor."

-----PRACTICE OF MIDWIFERY

Sec. 633. G.S. 90-178.7 reads as rewritten:

"*§ 90-178.7. Enforcement.*

(a) The joint subcommittee may apply to the Superior Court of Wake County to restrain any violation of this Article.

(b) Any person who violates G.S. 90-178.3(a) shall be guilty of a ~~misdemeanor and shall be punishable by a fine not exceeding one hundred dollars ($100.00) or imprisonment for not more than 30 days or both in the discretion of the court.~~ Class 3 misdemeanor."

-----VETERINARY ASSISTANTS

Sec. 634. G.S. 90-187.6(f) reads as rewritten:

"(f) Any person registered as an animal or veterinary technician, veterinary student intern or veterinary student preceptee, who shall practice veterinary medicine except as provided herein, shall be guilty of a Class 1 misdemeanor, ~~subject to the penalties set forth in this Article~~ and shall also be subject to revocation of registration. Any nonregistered veterinary employee employed under subsection (c) who practices veterinary medicine except as provided under that subsection shall be guilty of a ~~misdemeanor and subject to the penalties prescribed in G.S. 90-187.12.~~ Class 1 misdemeanor."

Sec. 635. G.S. 90-187.6(g) reads as rewritten:

"(g) Any veterinarian directing or permitting a registered technician, intern, preceptee or other employee to perform a task or procedure not specifically allowed under this Article and the rules of the Board shall be guilty of a ~~misdemeanor and subject to the penalties set forth in this Article or General Statutes, or both.~~ Class 1 misdemeanor."

-----UNAUTHORIZED VETERINARY PRACTICE; PENALTY

Sec. 636. G.S. 90-187.12 reads as rewritten:

"*§ 90-187.12. Unauthorized practice; penalty.*

If any person shall

(1) Practice or attempt to practice veterinary medicine in this State without first having obtained a license or temporary permit from the Board; or

(2) Practice veterinary medicine without the renewal of his license, as provided in G.S. 90-187.5; or

(3) Practice or attempt to practice veterinary medicine while his license is revoked, or suspended, or when a certificate of license has been refused; or

(4) Violate any of the provisions of this Article,

said person shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00), or imprisonment at the discretion of the court, or both fined and~~

~~imprisoned.~~ Class 1 misdemeanor. Each act of such unlawful practice shall constitute a distinct and separate offense."

-----UNLAWFUL TO PRACTICE PODIATRY UNLESS REGISTERED

Sec. 637. G.S. 90-202.3 reads as rewritten:

"§ *90-202.3. Unlawful to practice unless registered.*

No person shall practice podiatry unless he shall have been first licensed and registered so to do in the manner provided in this Article, and if any person shall practice podiatry without being duly licensed and registered, as provided in this Article, he shall not be allowed to maintain any action to collect any fee for such services. Any person who engages in the practice of podiatry unless licensed and registered as hereinabove defined, or who attempts to do so, or who professes to do so, shall be guilty of a ~~misdemeanor and upon conviction thereof, shall be punished by a fine or imprisonment or both in the discretion of the court.~~ Class 1 misdemeanor. Each act of such unlawful practice shall constitute a separate offense."

-----LICENSE TO DIRECT FUNERALS

Sec. 638. G.S. 90-210.25(f) reads as rewritten:

"(f) Unlawful Practices. -- If any person shall practice or hold himself out as practicing the profession or art of embalming, funeral directing or practice of funeral service without having complied with the licensing provisions of this Article, he shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than six months, or both, in the discretion of the court.~~ Class 2 misdemeanor.

Whenever it shall appear to the Board that any person, firm or corporation has violated, threatens to violate or is violating any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides."

-----LICENSING AND INSPECTION OF CREMATORIES

Sec. 639. G.S. 90-210.43(g) reads as rewritten:

"(g) The Board and Crematory Authority may hold hearings in accordance with the provisions of this Article and Chapter 150B. Any such hearing shall be conducted jointly by the Board and the

Crematory Authority. The Board and the Crematory Authority shall jointly constitute an 'agency' under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article. The Board is empowered to regulate and inspect crematories and crematory operators and to enforce as provided by law the provisions of this Article and the rules adopted hereunder.

In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation or proceeding conducted by it or conducted jointly with the Crematory Authority. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----CREMATORY RULEMAKING, VIOLATIONS, AND PROHIBITIONS

Sec. 640. G.S. 90-210.50(c) reads as rewritten:

"(c) A violation of any of the provisions of this Article is a ~~misdemeanor punishable by imprisonment for up to six months and a fine up to one thousand dollars ($1,000).~~ Class 2 misdemeanor."

-----SUPERVISION OF LICENSED PHYSICIAN REQUIRED IN SELECTION OF BLOOD DONORS; PENALTY FOR VIOLATION

Sec. 641. G.S. 90-220.12 reads as rewritten:

"*§ 90-220.12. Supervision of licensed physician required; penalty for violation.*

It shall be unlawful for any person, firm or corporation to engage in the selection of blood donors or in the collection, storage, processing, or transfusion of human blood, except at the direction or under the supervision of a physician licensed to practice medicine in North Carolina. Any person, firm or corporation convicted of the violation of this section shall be guilty of a Class 1 misdemeanor."

-----PRACTICE OF DENTAL HYGIENE

Sec. 642. G.S. 90-233.1 reads as rewritten:

"*§ 90-233.1. Violation a misdemeanor.*

Any person who shall violate, or aid or abet another in violating, any of the provisions of this Article shall be guilty of a ~~misdemeanor and upon conviction shall be punished in the discretion of the court.~~ Class 1 misdemeanor."

-----DISPENSING OPTICIANS

Sec. 643. G.S. 90-251 reads as rewritten:

"*§ 90-251. Licensee allowing unlicensed person to use his certificate or license.*

Each licensee licensed under the provisions of this Article who shall rent, loan or allow the use of his registration certificate or license to an unlicensed person for any unlawful use shall be guilty of a ~~misdemeanor and upon conviction shall be fined not less than one hundred dollars ($100.00) or imprisoned for not more than 12 months, or both, in the discretion of the court, and shall forfeit his license.~~ Class 1 misdemeanor."

-----ENGAGING IN PRACTICE WITHOUT LICENSE IN OPTICIANRY

Sec. 644. G.S. 90-252 reads as rewritten:

"*§ 90-252. Engaging in practice without license.*

Any person, firm or corporation owning, managing or conducting a store, shop or place of business and not having in its employ and on duty, during all hours in which acts constituting the business of opticianry are carried on, a licensed dispensing optician engaged in supervision of such store, office, place of business or optical establishment, or representing to the public, by means of advertisement or otherwise or by using the words, 'optician, licensed optician, optical establishment, optical office, ophthalmic dispenser,' or any combination of such terms within or without such store representing that the same is a legally established optical place of business duly licensed as such and managed or conducted by persons holding a dispensing optician's license, when in fact such permit is not held by such person, firm or corporation, or by some person employed by such person, firm or corporation and on the premises and in charge of such optical business, shall be guilty of a ~~misdemeanor and may, upon conviction, be fined not less than one hundred dollars ($100.00) or be imprisoned for not more than 12 months, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----SALE OF FLAMMABLE FRAMES

Sec. 645. G.S. 90-255.1 reads as rewritten:

"*§ 90-255.1. Sale of flammable frames.*

No person shall distribute, sell, exchange or deliver, or have in his possession with intent to distribute, sell, exchange or deliver any eyeglass frame or sunglass frame which contains any form of cellulose nitrate or other highly flammable materials. Any person violating the provisions of this ~~subsection~~ section shall be guilty of a ~~misdemeanor, and upon conviction, shall be punished by a fine of not more than five hundred dollars ($500.00), or imprisonment for not more than six~~

~~months or by both such fine and imprisonment in the discretion of the court.~~ Class 2 misdemeanor."

-----PRACTICING PSYCHOLOGISTS; PROHIBITED ACTS

Sec. 646. G.S. 90-270.17 reads as rewritten:

"*§ 90-270.17. Violations and penalties.*

Any person who violates G.S. 90-270.16 is guilty of a ~~misdemeanor and upon conviction shall be punishable by a fine of not more than five hundred dollars ($500.00), or imprisonment for not more than six months, or both fine and imprisonment.~~ Class 2 misdemeanor. Each violation shall constitute a separate offense."

-----UNLAWFUL PRACTICE OF PHYSICAL THERAPY

Sec. 647. G.S. 90-270.35 reads as rewritten:

"*§ 90-270.35. Unlawful practice.*

Except as otherwise authorized in this Article, if any person, firm, or corporation shall:

(1) Practice, attempt to practice, teach, consult, or supervise in physical therapy, or hold out any person as being able to do any of these things in this State, without first having obtained a license or authorization from the Board for the person performing services or being so held out;

(2) Use in connection with any person's name any letters, words, numerical codes, or insignia indicating or implying that the person is a physical therapist or physical therapist assistant, or applicant with "Graduate" status, unless the person is licensed or authorized in accordance with this Article;

(3) Practice or attempt to practice physical therapy with a revoked, lapsed, or suspended license;

(4) Practice physical therapy and fail to refer to a licensed medical doctor or dentist any patient whose medical condition should have, at the time of evaluation or treatment, been determined to be beyond the scope of practice of a physical therapist;

(5) Aid, abet, or assist any unlicensed person to practice physical therapy in violation of this Article; or

(6) Violate any of the provisions of this Article;

said person, firm, or corporation shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be fined or imprisoned, or both fined and imprisoned, in the discretion of the court.~~ Class 1 misdemeanor. Each act of such unlawful practice shall constitute a distinct and separate offense."

-----VIOLATIONS IN OCCUPATIONAL THERAPY

Sec. 648. G.S. 90-270.79 reads as rewritten:

"*§ 90-270.79. Violation a misdemeanor.*

Any person who violates any provision of this Article shall be guilty of a ~~misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor. Each act of such unlawful practice shall constitute a distinct and separate offense."

-----ACTING IN THE CAPACITY OF A NURSING HOME ADMINISTRATOR

Sec. 649. G.S. 90-288 reads as rewritten:

"§ *90-288. Misdemeanor.*

It shall be unlawful and constitute a ~~misdemeanor punishable upon conviction by a fine or imprisonment in the discretion of the court,~~ Class 1 misdemeanor,

(1) For any person to act or serve in the capacity as, or hold himself out to be, a nursing home administrator, or use any title, sign, or other indication that he is a nursing home administrator, unless he is the holder of a valid license as a nursing home administrator, issued in accordance with the provisions of this Article, and

(2) For any person to violate any of the provisions of this Article or any rules and regulations issued pursuant thereto."

-----PERSONS VIOLATING THE LICENSURE ACT FOR SPEECH AND LANGUAGE PATHOLOGISTS

Sec. 650. G.S. 90-306 reads as rewritten:

"§ *90-306. Penalty for violation.*

Any person, partnership, or corporation who or which willfully violates the provisions of this Article shall be guilty of a ~~misdemeanor and shall be fined not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00) or be imprisoned for a period not exceeding six months, or both, in the discretion of the Court,~~ Class 2 misdemeanor."

-----REGISTERED PRACTICING COUNSELORS

Sec. 651. G.S. 90-341 reads as rewritten:

"§ *90-341. Violation a misdemeanor.*

Any person violating any provision of this Article is guilty of a ~~misdemeanor and, upon conviction thereof, may be punishable by fine, by imprisonment, or by both fine and imprisonment.~~ Class 1 misdemeanor."

-----DIETETICS/NUTRITION

Sec. 652. G.S. 90-366 reads as rewritten:

"§ *90-366. Violation a misdemeanor.*

Any person who violates any provision of this Article shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 1

misdemeanor. Each act of such unlawful practice shall constitute a distinct and separate offense."

-----REGISTRATIONS OF SANITARIANS

Sec. 653. G.S. 90A-66 reads as rewritten:

"§ *90A-66. Violations; penalty; injunction.*

Any person violating any of the provisions of this Article or of the rules and regulations adopted by the Board shall be guilty of a ~~misdemeanor and punishable in the discretion of the court.~~ Class 1 misdemeanor. The Board may appear in its own name in the superior courts in an action for injunctive relief to prevent violation of this Article and the superior courts shall have power to grant such injunctions regardless of whether criminal prosecution has been or may be instituted as a result of such violations. Actions under this section shall be commenced in the superior court district or set of districts as defined in G.S. 7A-41.1 in which the respondent resides or has his principal place of business or in which the alleged acts occurred."

-----SOCIAL WORKER CERTIFICATION

Sec. 654. G.S. 90B-12 reads as rewritten:

"§ *90B-12. Violation a misdemeanor.*

Any person violating any provision of this Chapter is guilty of a ~~misdemeanor and, upon conviction thereof, may be punishable by fine not exceeding two hundred dollars ($200.00) for the first offense and five hundred dollars ($500.00) for each subsequent offense, by imprisonment of not more than six months, or by both such fine and imprisonment.~~ Class 2 misdemeanor."

-----PAWNBROKERS MODERNIZATION ACT

Sec. 655. G.S. 91A-11(a) reads as rewritten:

"(a) Every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this Chapter, shall, on conviction thereof, be deemed guilty of a ~~misdemeanor, and shall be fined a sum not to exceed five hundred dollars ($500.00) for each offense, and at the discretion of the court, may be imprisoned for a period of time not to exceed six months.~~ Class 2 misdemeanor. If the violation is by an owner or major stockholder or managing partner of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or managing partner of the pawnshop, then the license of the pawnshop may be suspended at the discretion of the court."

-----PUBLIC ACCOUNTANTS

Sec. 656. G.S. 93-13 reads as rewritten:

"§ *93-13. Violation of Chapter; penalty.*

Any violation of the provisions of this Chapter shall be deemed a Class 3 misdemeanor, and upon conviction thereof the guilty party

shall only be fined not less than one hundred dollars ($100.00) and not exceeding one thousand dollars ($1,000) for each offense."

-----REAL ESTATE BROKERS AND SALESMEN

Sec. 657. G.S. 93A-8 reads as rewritten:

"§ *93A-8. Penalty for violation of Chapter.*

Any person violating the provisions of this Chapter shall upon conviction thereof be deemed guilty of a ~~misdemeanor and shall be punished by a fine or imprisonment, or by both fine and imprisonment, in the discretion of the court.~~ Class 1 misdemeanor."

-----TIME SHARES

Sec. 658. G.S. 93A-56 reads as rewritten:

"§ *93A-56. Penalty for violation of Article.*

Except as provided in G.S. 93A-40(b) and G.S. 93A-58, any person violating the provisions of this Article shall be guilty of a ~~misdemeanor and shall be punished by a fine, imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----REAL ESTATE APPRAISERS

Sec. 659. G.S. 93A-81(a) reads as rewritten:

"(a) Any person who acts as, or holds himself out to be, a State-licensed or State-certified real estate appraiser without first obtaining a license or certificate as provided in this Article, or who willfully performs the acts specified in G.S. 93A-80(a)(1) through (10), shall be guilty of a ~~misdemeanor and shall be punished by a fine or imprisonment, or by both, in the discretion of the court.~~ Class 1 misdemeanor."

-----NORTH CAROLINA STATE HEARING AID DEALERS AND FITNESS BOARD

Sec. 660. G.S. 93D-15 reads as rewritten:

"§ *93D-15. Violation of Chapter.*

Any person who violates any of the provisions of this Chapter and any person who holds himself out to the public as a fitter and seller of hearing aids without having first obtained a license or apprenticeship registration as provided for herein shall be deemed guilty of a ~~misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars ($1,000) nor less than five hundred dollars ($500.00) or imprisonment for not more than six months, or both, in the discretion of the court.~~ Class 2 misdemeanor."

-----WAGE AND HOUR ACT

Sec. 661. G.S. 95-25.21(c) reads as rewritten:

"(c) Any person who violates this section shall be guilty of a ~~misdemeanor, subject to a fine of not more than two hundred fifty dollars ($250.00) or imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----WORKING HOURS OF EMPLOYEES IN STATE INSTITUTIONS

Sec. 662. G.S. 95-28 reads as rewritten:

"§ *95-28. Working hours of employees in State institutions.*

It shall be unlawful for any person or official or foreman or other person in authority in Dorothea Dix Hospital, Broughton Hospital, Cherry Hospital, or any penal or correctional institution of the State of North Carolina, excepting the State prison and institutions under the control of the Board of Transportation, to require any employee to work for a greater number of hours than 12 during any 24-hour period, or not more than 72 hours during any one week, or permit the same, during which period the said employee shall be permitted to take one continuous hour off duty; except in case of an emergency as determined by the superintendent, in which case the limitation of 12 hours in any consecutive 24 hours shall not apply. Nothing in this section shall be construed to affect the hours of doctors and superintendents in these hospitals. Any violation of this section shall be a ~~misdemeanor, punishable within the discretion of the court.~~ Class 1 misdemeanor."

-----PRIVATE PERSONNEL SERVICES

Sec. 663. G.S. 95-47.9(e) reads as rewritten:

"(e) Any person who operates as a private personnel service without first obtaining the appropriate license (i) shall be guilty of a ~~misdemeanor and upon conviction shall be subject to a fine not to exceed two thousand dollars ($2,000), or imprisonment for not more than one year, or both, by any court of competent jurisdiction;~~ Class 1 misdemeanor; and (ii) be subject to a civil penalty of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00) for each day the private personnel service operates without a license, the penalty not to exceed a total of two thousand dollars ($2,000). Actions to recover civil penalties shall be initiated by the Attorney General and any such penalties collected shall be deposited to the general fund."

-----SEPARATE TOILETS FOR SEXES

Sec. 664. G.S. 95-50 reads as rewritten:

"§ *95-50. Punishment for violation of Article.*

If any person, firm, or corporation refuses to comply with the provisions of this Article, he or it shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----BOILER INSPECTION CERTIFICATES REQUIRED; MISREPRESENTATION AS INSPECTOR

Sec. 665. G.S. 95-69.18 reads as rewritten:

"§ *95-69.18. Inspection certificates required; misrepresentation as inspector.*

It shall be unlawful for any person, firm, partnership, association or corporation to operate or use any boiler or pressure vessel in this State, and to which this Article applies, without a valid inspection certificate issued by the North Carolina Department of Labor. Any person, firm, partnership, association or corporation found to be operating or using a boiler or pressure vessel without a valid inspection certificate shall be guilty of a Class 3 misdemeanor ~~and upon conviction be subject to~~ which may include a fine of one thousand dollars ($1,000) ~~or imprisonment for 30 days, or both in the discretion of the court~~.

Any person who knowingly and willfully misrepresents himself as an authorized inspector in North Carolina, shall be guilty of a ~~misdemeanor and upon conviction thereof be fined up to one thousand dollars ($1,000) or imprisonment for six months, or both in the discretion of the court.~~ Class 2 misdemeanor."

-----EARNINGS OF EMPLOYEES IN INTERSTATE COMMERCE

Sec. 666. G.S. 95-75 reads as rewritten:

"*§ 95-75. Remedies for violation of § 95-73 or 95-74; damages; indictment.*

Any person violating any provisions of G.S. 95-73 or 95-74 shall be answerable in damages to any debtor from whom any book account, negotiable instrument, duebill, or other monetary demand arising out of contract shall be collected, or against whose earnings any warrant of attachment or notice of garnishment shall be issued, in violation of the provisions of G.S. 95-73, to the full amount of the debt thus collected, attached, or garnisheed, to be recovered by civil action in any court of competent jurisdiction in this State; and any person so offending shall likewise be guilty of a Class 3 misdemeanor, punishable only by a fine of not more than two hundred dollars ($200.00)."

-----PUBLIC EMPLOYEES

Sec. 667. G.S. 95-99 reads as rewritten:

"*§ 95-99. Penalty for violation of Article.*

Any violation of the provisions of this Article is hereby declared to be a ~~misdemeanor, and upon conviction, plea of guilty or plea of nolo contendere shall be punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----PAYMENTS TO OR FOR BENEFIT OF LABOR ORGANIZATIONS

Sec. 668. G.S. 95-104 reads as rewritten:

"*§ 95-104. Penalty.*

Any person, firm, corporation, association or partnership which or who agrees to pay, or does pay, or agrees to receive, or does receive, any payment described in this Article shall be guilty of a Class 3

misdemeanor and shall only be fined not less than one hundred dollars ($100.00), nor more than one thousand dollars ($1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense."

-----ELEVATOR SAFETY ACT

Sec. 669. G.S. 95-110.11 reads as rewritten:

"§ *95-110.11. Violations; criminal penalties.*

(a) Any person who violates G.S. 95-110.8 (Operation of unsafe device or equipment) shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined one thousand dollars ($1,000), or imprisoned for a period of six months, or both, in the discretion of the court.~~ Class 2 misdemeanor.

(b) Any person misrepresenting himself as an authorized inspector administering or enforcing the provisions of this Article or the rules and regulations promulgated thereunder shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined one thousand dollars ($1,000), or imprisoned for a period of six months, or both, in the discretion of the court.~~ Class 2 misdemeanor.

(c) Any person knowingly making a material and false statement, representation or certification in any application, record, report, plan or any other document filed or required to be maintained pursuant to this Article or the rules and regulations promulgated thereunder shall be ~~fined a maximum of~~ guilty of a Class 2 misdemeanor which may include a fine of up to five thousand dollars ($5,000)~~, or imprisoned for not more than six months, or both, in the discretion of the court~~."

-----PASSENGER TRAMWAY REGISTRATION

Sec. 670. G.S. 95-124 reads as rewritten:

"§ *95-124. Suspension of registration.*

If any operator fails to comply with the lawful order of the Commissioner as issued under this Article, and within the time fixed thereby, the Commissioner may suspend the registration of the affected passenger tramway for such time as he may consider necessary for the protection of the safety of the public. Any operator who shall be convicted, or enter a plea of guilty or **nolo contendere**, to operating a passenger tramway which has not been registered by the Commissioner, or after its registration has been suspended by the Commissioner, shall be guilty of a ~~misdemeanor and shall be punished by a fine of not more than fifty dollars ($50.00) per day for each day of the such illegal operations or by imprisonment in the discretion of the court, or both such fine and imprisonment.~~ Class 1 misdemeanor."

-----OCCUPATIONAL SAFETY AND HEALTH ACT

Sec. 671. G.S. 95-139 reads as rewritten:

"§ *95-139. Criminal penalties.*

Any employer who willfully violates any standard, rule, regulation or order promulgated pursuant to the authority of this Article, and said violation causes the death of any employee, shall be guilty of a Class 2 misdemeanor, ~~and upon conviction thereof, shall be punished by~~ which may include a fine of not more than ten thousand dollars ($10,000) ~~or by imprisonment for not more than six months, or by both~~; except that if the conviction is for a violation committed after a first conviction of such person, ~~punishment shall be~~ the employer shall be guilty of a Class 1 misdemeanor which may include a fine of not more than twenty thousand dollars ($20,000) ~~or by imprisonment for not more than one year, or by both~~. This section shall not prevent any prosecuting officer of the State of North Carolina from proceeding against such employer on a prosecution charging any degree of willful or culpable homicide. Any person who gives advance notice of any inspection to be conducted under this Article, without authority from the Commissioner, Director, or any of their agents to whom such authority has been delegated, shall be guilty of a ~~misdemeanor, and upon conviction thereof, be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six months, or by both.~~ Class 2 misdemeanor. Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or any other document filed or required to be maintained pursuant to this Article, shall be guilty of a Class 2 misdemeanor, ~~and upon conviction thereof, shall be punished by~~ which may include a fine of not more than ten thousand dollars ($10,000) ~~or by imprisonment for not more than six months, or by both~~. Whoever shall commit any kind of assault upon or whoever kills a person engaged in or on account of the performance of investigative, inspection, or law-enforcement functions shall be subject to prosecution under the general criminal laws of the State and upon such charges as the proper prosecuting officer shall charge or allege."

-----EMERGENCY INFORMATION

Sec. 672. G.S. 95-194(g) reads as rewritten:

"(g) Any knowing distribution or disclosure (or permitted disclosure) of any information referred to in subsection (f) of this section in any manner except as specifically permitted under that subsection (f) shall be punishable as a Class 1 misdemeanor. Restrictions concerning confidentiality or nondisclosure of information under this Article 18 shall be exemptions from the Public Records Act contained in Chapter 132 of the General Statutes, and such information shall not be disclosed notwithstanding the provisions of Chapter 132 of the General Statutes."

-----PROTECTION OF WITNESS BEFORE THE ESC

Sec. 673. G.S. 96-15.2 reads as rewritten:

"§ 96-15.2. *Protection of witness before the Employment Security Commission.*

If any person shall by threats, menace, or in any other manner intimidate or attempt to intimidate any person who is summoned or acting as a witness in any proceeding brought under the Employment Security Act, or prevent or deter, or attempt to prevent or deter any person summoned or acting as such witness from attendance upon such proceeding, he shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned in the discretion of the court,~~ Class 1 misdemeanor."

-----UNEMPLOYMENT INSURANCE DIVISION

Sec. 674. G.S. 96-18(a) reads as rewritten:

"(a) Any person who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain or increase any benefit under this Chapter or under an employment security law of any other state, the federal government, or of a foreign government, either for himself or any other person, shall be guilty of a Class 1 misdemeanor, and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

Records, with any necessary authentication thereof, required in the prosecution of any criminal action brought by another state or foreign government for misrepresentation to obtain benefits under the law of this State shall be made available to the agency administering the employment security law of any such state or foreign government for the purpose of such prosecution. Photostatic copies of all records of agencies of other states or foreign governments required in the prosecution of any criminal action under this section shall be as competent evidence as the originals when certified under the seal of such agency, or when there is no seal, under the hand of the keeper of such records."

Sec. 675. G.S. 96-18(b) reads as rewritten:

"(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contributions or other payment required from an employing unit under this Chapter, or who willfully fails or refuses to furnish any reports required hereunder, or to produce or permit the inspection or copying of records as required hereunder, shall be guilty of a Class 1 misdemeanor; and each such false statement or representation or failure to disclose a material fact,

and each day of such failure or refusal shall constitute a separate offense."

Sec. 676. G.S. 96-18(c) reads as rewritten:

"(c) Any person who shall willfully violate any provisions of this Chapter or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Chapter, or for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be guilty of a Class 1 misdemeanor, and each day such violation continues shall be deemed to be a separate offense."

-----WORKERS' COMP CLAIMS UNASSIGNABLE AND EXEMPT FROM TAXES AND DEBTS

Sec. 677. G.S. 97-21 reads as rewritten:

"*§ 97-21. Claims unassignable and exempt from taxes and debts; agreement of employee to contribute to premium or waive right to compensation void; unlawful deduction by employer.*

No claim for compensation under this Article shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors and from taxes.

No agreement by an employee to pay any portion of premium paid by his employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this Article shall be valid, and any employer who makes a deduction for such purpose from the pay of any employee entitled to the benefits of this Article shall be guilty of a Class 3 misdemeanor and upon conviction thereof shall be punished only by a fine of not more than five hundred dollars ($500.00). No agreement by an employee to waive his right to compensation under this Chapter shall be valid."

-----EXAMINATION OF EMPLOYEES/INDUSTRIES WITH DUST HAZARDS

Sec. 678. G.S. 97-60 reads as rewritten:

"*§ 97-60. Examination of employees by advisory medical committee; designation of industries with dust hazards.*

The compulsory examination of employees and prospective employees as herein provided applies only to persons engaged or about to engage in an occupation which has been found by the Industrial Commission to expose them to the hazards of asbestosis and/or silicosis. The Industrial Commission shall designate by order each industry found subject to any such hazard and shall notify the employers therein before such examinations are required. On and after March 26, 1935, it shall be the duty of every employer, in the conduct of whose business his employees or any of them are subjected to the hazard of asbestosis and/or silicosis, to provide prior to

employment necessary examinations of all new employees for the purpose of ascertaining if any of them are in any degree affected by asbestosis and/or silicosis or peculiarly susceptible thereto; and every such employer shall from time to time, as ordered by the Industrial Commission, provide similar examinations for all of his employees whose employment exposes them to the hazards of asbestosis and/or silicosis. At least one member of the advisory medical committee or other physician designated by the Industrial Commission shall make such examinations or be present when any such examination is made. The refusal of an employee to submit to any such examination shall bar such employee from compensation or other benefits provided by this Article in the event of disablement and/or death resulting from exposure to the hazards of asbestosis and/or silicosis subsequent to such refusal. It shall be the duty of the Industrial Commission to make and/or order inspections of employments and to keep a record of all employments subjecting employees to the hazards of asbestosis and/or silicosis, and to notify the employer in any case where such hazard shall have been found to exist. The unreasonable failure of an employer to provide for any examination or his unreasonable refusal to permit any inspection herein authorized shall constitute a Class 1 misdemeanor and shall be punishable as such."

-----INSPECTION OF HAZARDOUS EMPLOYMENTS; REFUSAL TO ALLOW INSPECTION

Sec. 679. G.S. 97-76 reads as rewritten:

"§ *97-76. Inspection of hazardous employments; refusal to allow inspection made misdemeanor.*

The Industrial Commission shall make inspections of employments for the purpose of ascertaining whether such employments, or any of them, are subject to the hazards of asbestosis and/or silicosis, and for the purpose of making studies and recommendations with a view to reducing and/or eliminating such hazards. The Industrial Commission, and/or any person selected by it, is authorized to enter upon the premises of employers where employments covered by this Article are being carried on to make examinations and studies as aforesaid. Any employer, or any officer or agent of any employer, who unreasonably prevents or obstructs any such examinations or study shall be guilty of a Class 1 misdemeanor."

-----WORKERS' COMP LEGAL AND MEDICAL FEES

Sec. 680. G.S. 97-90(b) reads as rewritten:

"(b) Any person (i) who receives any fee, other consideration, or any gratuity on account of services so rendered, unless such consideration or gratuity is approved by the Commission or such court, or (ii) who makes it a business to solicit employment for a lawyer or for himself in respect of any claim or award for

compensation, shall be guilty of a ~~misdemeanor, and upon conviction thereof shall, for each offense, be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment not to exceed one year, or by both such fine and imprisonment.~~ Class 1 misdemeanor."

-----WORKERS' COMP REQUIRED

Sec. 681. G.S. 97-94(c) reads as rewritten:

"(c) Any employer required to secure the payment of compensation under this Article who willfully refuses or neglects to secure such compensation shall be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court,~~ Class 1 misdemeanor."

-----WRONGFUL OR FRAUDULENT REPRESENTATION OF CARRIER

Sec. 682. G.S. 97-100(g) reads as rewritten:

"(g) Any person or persons who shall in this State act or assume to act as agent for any such insurance carrier whose authority to do business in this State has been suspended, while such suspension remains in force, or shall neglect or refuse to comply with any of the provisions of this section obligatory upon such person or party or who shall willfully make a false or fraudulent statement of the business or condition of any such insurance carrier, or false or fraudulent return as herein provided, shall be deemed guilty of a ~~misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred ($100.00) nor more than one thousand dollars ($1,000), or by imprisonment for not less than 10 nor more than 90 days, or both such fine and imprisonment in the discretion of the court.~~ Class 2 misdemeanor."

-----DAMAGING, DEFACING, OR DESTROYING MONUMENTS

Sec. 683. G.S. 102-4 reads as rewritten:

"§ *102-4. Damaging, defacing, or destroying monuments.*

If any person shall willfully damage, deface, destroy, or otherwise injure a station, monument or permanent mark of the North Carolina Coordinate System, or shall oppose any obstacles to the proper, reasonable, and legal use of any such station or monument, such person shall be guilty of a ~~misdemeanor, and shall be liable to fine or imprisonment at the discretion of the court.~~ Class 1 misdemeanor."

-----HUNTING ON SUNDAY

Sec. 684. G.S. 103-2 reads as rewritten:

"§ *103-2. Hunting on Sunday.*

If any person shall, except in defense of his own property, hunt on Sunday, having with him a shotgun, rifle, or pistol, he shall be guilty of a ~~misdemeanor and pay a fine not exceeding fifty dollars ($50.00) or [be] imprisoned not exceeding 30 days.~~ Class 3 misdemeanor. Provided, that the provisions hereof shall not be applicable to military

reservations, the jurisdiction of which is exclusively in the federal government, or to field trials authorized by the Wildlife Resources Commission. Wildlife protectors are granted authority to enforce the provisions of this section."

----- RADIATION PROTECTION ACT

Sec. 685. G.S. 104E-23(a) reads as rewritten:

"(a) Any person who violates the provisions of G.S. 104E-15 or 104E-20, or who hinders, obstructs, or otherwise interferes with any authorized representative of the Department in the discharge of his official duties in making inspections as provided in G.S. 104E-11, or in impounding materials as provided in G.S. 104E-14, shall be guilty of a Class 1 misdemeanor and, upon conviction thereof, shall be punished as provided by law. Any person who willfully violates the provisions of G.S. 104E-10.2 shall be guilty of a Class 1 misdemeanor and, upon conviction, shall be punished as provided by law."

-----CONFIDENTIAL INFORMATION ON RADIATION PROTECTION RECEIVED BY SECRETARY PROTECTED

Sec. 686. G.S. 104E-29(c) reads as rewritten:

"(c) Except as provided in subsection (b) of this section or as otherwise provided by law, any officer or employee of the State who knowingly discloses information designated as confidential under this section shall be guilty of a ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than two years or both~~ Class 1 misdemeanor and shall be removed from office or discharged from employment."

-----RADIOACTIVE WASTE COMPACT

Sec. 687. G.S. 104F-3 reads as rewritten:

"§ *104F-3. Violation a misdemeanor.*

Violation of the provisions of this compact by any person not an official of another state is a Class 1 misdemeanor."

-----LICENSE TAXES

Sec. 688. G.S. 105-33(j) reads as rewritten:

"(j) Any person, firm, or corporation who shall wilfully make any false statement in an application for a license under any section of this Article or schedule shall be guilty of a Class 1 misdemeanor, ~~and upon conviction shall be fined and/or imprisoned in the discretion of the court, which fine~~ which may include a fine which shall not be less than the amount of tax specified under such section, and shall be in addition to the amount of such tax."

-----PAWNBROKERS

Sec. 689. G.S. 105-50(c) reads as rewritten:

"(c) Any person, firm, or corporation transacting the business of pawnbroker without a license as provided in this section, or violating

any of the provisions of this section, shall be guilty of a Class 3 misdemeanor and fined only not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00)."

-----PEDDLERS, ITINERANT MERCHANTS, AND SPECIALTY MARKET OPERATORS

Sec. 690. G.S. 105-53(l) reads as rewritten:

"(l) Penalty. -- It shall be a Class 3 misdemeanor~~, punishable by imprisonment of up to 30 days, a fine of up to two hundred dollars ($200.00), or both,~~ for a person to:

(1) Fail to obtain a license as required by this section;

(2) Knowingly give false information in the application process for a license or when registering pursuant to subsection (k);

(3) If the person is an itinerant merchant, fail to display the license as required by subsection (i) or if the person is a peddler or specialty market operator, fail to produce the license as required by subsection (i) or if the person is required to do so, fail to comply with subsection (j). Whenever satisfactory evidence shall be presented in any court of the fact that a license was required by this section and such license was not displayed or produced as required by subsection (i), or that permission was required by subsection (j) of this section and was not displayed, the peddler, itinerant merchant, or specialty market operator shall be found not guilty of that violation provided he produces in court a valid license or valid permission which had been issued prior to the time he was charged with such violation; or

(4) Fail to provide name, address, or identification upon request as required by subsection (i) or provide false information in response to such a request."

Sec. 691. G.S. 105-53(l1) reads as rewritten:

"(l1) Additional Penalties. -- It shall be a Class 3 misdemeanor~~, punishable by imprisonment of up to 30 days,~~ which may include a fine of up to one thousand dollars ($1,000), ~~or both,~~ for a specialty market operator to fail to comply with subsection (k) or for a specialty market vendor to fail to display the retail sales tax license as required by subsection (i). For the purposes of this section, the requirement that a retail sales tax license be displayed is satisfied if the vendor displays either (i) a copy of the license or (ii) evidence that the license has been applied for and the applicable license fee has been paid within 30 days before the date the license was required to be displayed. Whenever satisfactory evidence shall be presented in any court of the fact that display of a retail sales tax license was required by this section and such license was not displayed, the specialty

market operator or vendor shall not be found guilty of that violation provided he produces in court a valid license which had been issued prior to the time he was charged with the violation."

-----TOBACCO WAREHOUSES

Sec. 692. G.S. 105-77(g) reads as rewritten:

"(g) Any person, firm, or corporation who or which violates any of the provisions of this section shall, in addition to all other penalties provided for in this Article, be guilty of a ~~misdemeanor, and upon conviction shall be fined not less than five hundred dollars ($500.00) and/or imprisoned, in the discretion of the court.~~ Class 1 misdemeanor."

-----OUTDOOR ADVERTISING

Sec. 693. G.S. 105-86(c) reads as rewritten:

"(c) It shall be unlawful for any person engaged in the business of outdoor advertising to in any manner paint, print, place, post, tack or affix, or cause to be painted, printed, placed, posted, tacked or affixed any sign or other printed or painted advertisement on or to any stone, tree, fence, stump, pole, building or other object which is upon the property of another without first obtaining the written consent of such owner thereof, and any person, firm, or corporation who in any manner paints, prints, places, posts, tacks or affixes, or causes to be painted, printed, posted, tacked or affixed any such advertisement on the property of another except as herein provided shall be guilty of a ~~misdemeanor, and shall be punished by a fine not exceeding fifty dollars ($50.00), or imprisonment of 30 days;~~ Class 3 misdemeanor: Provided, that the provisions of this section shall not apply to legal notices."

Sec. 694. G.S. 105-86(i) reads as rewritten:

"(i) Every person, firm, or corporation who violates any of the provisions of this section shall be guilty of a Class 1 misdemeanor~~, and~~ in addition to the license tax and penalties provided for herein, ~~shall be fined not more than one hundred dollars ($100.00) for each sign so displayed, or imprisoned, in the discretion of the court.~~"

-----LOAN AGENCIES OR BROKERS

Sec. 695. G.S. 105-88(d) reads as rewritten:

"(d) Any such person, firm, or corporation failing, refusing, or neglecting to pay the tax herein levied shall be guilty of a Class 1 misdemeanor~~, and~~ in addition to double the tax due ~~shall be fined not less than two hundred and fifty dollars ($250.00) and/or imprisoned, in the discretion of the court~~. No such loan shall be collectible at law in the courts of this State in any case where the person making such loan has failed to pay the tax levied herein, and/or otherwise complied with the provisions of this section."

-----EMIGRANT AND EMPLOYMENT AGENTS

Sec. 696. G.S. 105-90(c) reads as rewritten:

"(c) Any person, firm, or corporation violating the provisions of this section shall be guilty of a ~~misdemeanor and fined, in addition to other penalties, not less than one thousand dollars ($1,000) and/or imprisoned, in the discretion of the court.~~ Class 1 misdemeanor."

-----WHOLESALE DISTRIBUTORS OF MOTOR FUELS

Sec. 697. G.S. 105-99 reads as rewritten:

"*§ 105-99. Wholesale distributors of motor fuels.*

Every person, firm, or corporation engaged in the business of distributing or selling at wholesale any motor fuels in this State shall apply to the Secretary for an additional annual license to engage in such business, and shall pay for such privilege an additional annual license tax determined and measured by the number of pumps owned or leased by the distributor or wholesaler through which such motor fuels are sold, at retail, according to the following schedule:

For the first 50 pumps	$ 2.00 per pump
For 51 additional pumps and not more than 100 pumps	4.00 per pump
For 101 additional pumps and not more than 200 pumps	5.00 per pump
For 201 additional pumps and not more than 300 pumps	6.00 per pump
For 301 additional pumps and not more than 400 pumps	7.00 per pump
For 401 additional pumps and not more than 500 pumps	8.00 per pump
For 501 additional pumps and not more than 600 pumps	9.00 per pump
For all over 600 pumps	10.00 per pump

In computing the tax, the number of pumps owned or leased by a distributor or wholesaler is considered the number of dispensing nozzles from which motor fuel can be dispensed simultaneously.

Any contract or agreement, oral or written, express or implied by the terms or the effects of which the tax herein imposed shall be passed on directly or indirectly to any person, firm, or corporation not engaged in the business hereby taxed is hereby declared to be against the public policy of this State and null and void, and any person, firm, or corporation negotiating such an agreement, or receiving the benefits thereof, shall be guilty of a ~~misdemeanor and fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor.

The tax herein imposed shall be in addition to all other taxes imposed by this Chapter or under any other laws.

Counties, cities and towns shall not levy any tax by reason of the additional tax imposed by this section, but this section shall in no way

affect the right given to counties, cities, and towns to levy taxes under G.S. 105-89.

The business taxed under this section shall not be taxed under G.S. 105-98."

-----ENGAGING IN BUSINESS WITHOUT A LICENSE

Sec. 698. G.S. 105-109(b) reads as rewritten:

"(b) If any person, firm, or corporation shall continue the business, trade, employment, or profession, or to do the act, after the expiration of a license previously issued, without obtaining a new license, he or it shall be guilty of a Class 1 misdemeanor, ~~and upon conviction shall be fined and/or imprisoned in the discretion of the court, but the fine~~ which may include a fine which shall not be less than twenty percent (20%) of the tax in addition to the tax and the costs; and if such failure to apply for and obtain a new license be continued, such person, firm, or corporation shall pay additional tax of five per centum (5%) of the amount of the State license tax which was due and payable on the first day of July of the current year, in addition to the State license tax imposed by this Article, for each and every 30 days, or fraction thereof, that such State license tax remains unpaid from the date that same was due and payable, and such additional tax shall be assessed by the Secretary of Revenue and paid with the State license tax, and shall become a part of the State license tax. The penalties for delayed payment hereinbefore provided shall not impair the obligation to procure a license in advance or modify any of the pains and penalties for failure to do so.

The provisions of this section shall apply to taxes levied by the counties of the State under authority of this Article in the same manner and to the same extent as they apply to taxes levied by the State."

Sec. 699. G.S. 105-109(c) reads as rewritten:

"(c) If any person, firm, or corporation shall commence to exercise any privilege or to promote any business, trade, employment, or profession, or to do any act requiring a State license under this Article without such State license, he or it shall be guilty of a ~~misdemeanor, and shall be fined and/or imprisoned in the discretion of the court;~~ Class 1 misdemeanor; and if such failure, neglect, or refusal to apply for and obtain such State license be continued, such person, firm, or corporation shall pay an additional tax of five per centum (5%) of the amount of such State license tax which was due and payable at the commencement of the business, trade, employment or profession, or doing the act, in addition to the State license tax imposed by this Article, for each and every 30 days, or fraction thereof, that such State license tax remains unpaid from the date that same was due and payable, and such additional tax shall be assessed

by the Secretary of Revenue and paid with the State license tax and shall become a part of the State license tax."

-----TOBACCO PRODUCTS TAX

Sec. 700. G.S. 105-113.33 reads as rewritten:

"*§ 105-113.33. Criminal penalties.*

Any person who violates any of the provisions of this Article for which no other punishment is specifically prescribed shall be guilty of a ~~misdemeanor punishable by a fine or imprisonment or both in discretion of the court.~~ Class 1 misdemeanor."

-----ABC TAX SCHEDULE

Sec. 701. G.S. 105-113.73 reads as rewritten:

"*§ 105-113.73. Misdemeanor.*

Except as otherwise expressly provided, violation of a provision of the ABC law is a ~~misdemeanor and is punishable as provided in G.S. 14-3.~~ Class 1 misdemeanor."

-----CONFIDENTIALITY OF CONTROLLED SUBSTANCE TAX INFORMATION

Sec. 702. G.S. 105-113.112 reads as rewritten:

"*§ 105-113.112. Confidentiality of information.*

Notwithstanding any other provision of law, information obtained pursuant to this Article is confidential and may not be disclosed or, unless independently obtained, used in a criminal prosecution other than a prosecution for a violation of this Article. Stamps issued pursuant to this Article may not be used in a criminal prosecution other than a prosecution for a violation of this Article. A person who discloses information obtained pursuant to this Article is guilty of a Class 1 misdemeanor. This section does not prohibit the Secretary from publishing statistics that do not disclose the identity of dealers or the contents of particular returns or reports."

-----WILLFUL FAILURE TO PAY ESTIMATED TAX

Sec. 703. G.S. 105-163.44 reads as rewritten:

"*§ 105-163.44. Willful failure to pay estimated tax.*

Any person required by this Article to pay any estimated tax who willfully fails to pay the estimated tax at the time or times required by law or rules shall, in addition to other penalties provided by law, be guilty of a ~~misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed five hundred dollars ($500.00) or by imprisonment not to exceed six months, or both.~~ Class 2 misdemeanor."

-----ADVERTISEMENT TO ABSORB TAX UNLAWFUL

Sec. 704. G.S. 105-164.9 reads as rewritten:

"*§ 105-164.9. Advertisement to absorb tax unlawful.*

Any retailer who shall by any character or public advertisement offer to absorb the tax levied in this Article or in any manner directly

or indirectly advertise that the tax herein imposed is not considered an element in the price to the purchaser shall be guilty of a Class 1 misdemeanor. Any violations of the provisions of this section reported to the Secretary shall be reported by him to the Attorney General of the State to the end that such violations may be brought to the attention of the solicitor of the court of the county or district whose duty it is to prosecute misdemeanors in the jurisdiction. It shall be the duty of such solicitor to investigate such alleged violations and if he finds that this section has been violated prosecute such violators in accordance with the law."

-----LICENSES BY WHOLESALE MERCHANTS AND RETAILERS

Sec. 705. G.S. 105-164.29 reads as rewritten:

"§ *105-164.29. Application for licenses by wholesale merchants and retailers.*

Every application for a license by a wholesale merchant or retailer shall be made upon a form prescribed by the Secretary and shall set forth all information the Secretary may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some other person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of the person's authority. A wholesale merchant or retailer whose business extends into more than one county is required to secure only one license to cover all operations of the business throughout the State.

When the required application has been made the Secretary shall issue a license to the applicant. A license is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated in the license. The license holder shall display the license conspicuously at all times at the place for which it was issued.

A person whose license has been previously suspended or revoked shall pay the Secretary fifteen dollars ($15.00) for the reissuance of the license. A wholesale merchant whose annual license has been previously suspended or revoked shall pay the Secretary twenty-five dollars ($25.00) for the reissuance of the license for the remainder of the license year.

Whenever a license holder fails to comply with this Article, the Secretary, upon hearing, after giving the license holder 10 days' notice in writing, specifying the time and place of hearing and requiring the license holder to show cause why the license should not be revoked, may revoke or suspend the license. The notice may be served personally or by registered mail directed to the last known address of the license holder. All provisions with respect to review

and appeals of the Secretary's decisions as provided by G.S. 105-241.2, 105-241.3, and 105-241.4 apply to this section.

Any wholesale merchant or retailer who engages in business as a seller in this State without a license or after the license has been suspended or revoked, and each officer of any corporation that so engages in business shall be guilty of a Class 3 misdemeanor and only subject to a fine of up to five hundred dollars ($500.00) for each offense."

-----WILLFUL FAILURE TO PAY TAX

Sec. 706. G.S. 105-228.34 reads as rewritten:

"§ *105-228.34. Willful failure to pay tax.*

Any transferor or agent of transferor of real estate willfully and knowingly failing to pay the correct amount of the tax imposed by this Article or any person aiding, abetting, or directing any other person to willfully and knowingly fail to pay the correct amount of such tax shall be guilty of a Class 3 misdemeanor and only fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense. When the register of deeds relies on the statement of the party presenting the instrument for registration as to the correct amount of stamps to be affixed, he shall not be subject to prosecution as an aider or abettor under this section."

-----OFFICERS, AGENTS, AND EMPLOYEES; FAILING TO COMPLY WITH TAX LAW

Sec. 707. G.S. 105-233 reads as rewritten:

"§ *105-233. Officers, agents, and employees; failing to comply with tax law a misdemeanor.*

If any officer, agent, and/or employee of any person, firm, or corporation subject to the provisions of this Subchapter shall willfully fail, refuse, or neglect to make out, file, and/or deliver any reports or blanks, as required by such law, or to answer any question therein propounded, or to knowingly and willfully give a false answer to any such question wherein the fact inquired of is within his knowledge, or upon proper demand to exhibit to such Secretary of Revenue or any of his duly authorized representatives any book, paper, account, record, memorandum of such person, firm, or corporation in his possession and/or under his control, he shall be guilty of a Class 3 misdemeanor and only fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense."

-----AIDING AND/OR ABETTING IN VIOLATION OF TAX ADMINISTRATION

Sec. 708. G.S. 105-234 reads as rewritten:

"§ *105-234. Aiding and/or abetting officers, agents, or employees in violation of this Subchapter a misdemeanor.*

If any person, firm, or corporation shall aid, abet, direct, or cause or procure any of his or its officers, agents, or employees to violate any of the provisions of this Subchapter, he or it shall be guilty of a Class 3 misdemeanor, and only fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense."

-----TAXATION PENALTIES

Sec. 709. G.S. 105-236(8) reads as rewritten:

"(8) Willful Failure to Collect, Withhold, or Pay Over Tax. -- Any person required under this Subchapter to collect, withhold, account for, and pay over any tax imposed by this Subchapter who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of three years after the date of the violation."

Sec. 710. G.S. 105-236(9) reads as rewritten:

"(9) Willful Failure to File Return, Supply Information, or Pay Tax. -- Any person required under this Subchapter to pay any tax, to make a return, to keep any records, or to supply any information, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law, or regulations issued pursuant thereto, shall, in addition to other penalties provided by law, be guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of three years after the date of the violation."

-----FREE PRIVILEGE LICENSES FOR BLIND PEOPLE

Sec. 711. G.S. 105-249(f) reads as rewritten:

"(f) Any person violating the provisions of subsection (d) of this section shall be guilty of a Class 3 misdemeanor and only fined not to exceed twenty-five dollars ($25.00) for each offense."

-----SECRECY REQUIRED OF REVENUE OFFICIALS

Sec. 712. G.S. 105-259 reads as rewritten:

"§ *105-259. Secrecy required of officials; penalty for violation.*

With respect to any one of the following persons: (i) the Secretary of Revenue and all other officers or employees, and former officers and employees, of the Department of Revenue; (ii) local tax officials, as defined in G.S. 105-273, and former local tax officials; (iii) members and former members of the Property Tax Commission; (iv)

any other person authorized in this section to receive information concerning any item contained in any report or return, or authorized to inspect any report or return; and (v) the Commissioner of Insurance and all other officers or employees and former officers and employees of the Department of Insurance with respect to State and federal income tax returns filed with the Commissioner of Insurance by domestic insurance companies; and except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any of these persons to divulge or make known in any manner the amount of income, income tax or other taxes of any taxpayer, or information relating thereto or from which the amount of income, income tax or other taxes or any part thereof might be determined, deduced or estimated, whether it is set forth or disclosed in or by means of any report or return required to be filed or furnished under this Subchapter, or in or by means of any audit, assessment, application, correspondence, schedule or other document relating to the taxpayer, notwithstanding the provisions of Chapter 132 of the General Statutes or of any other law or laws relating to public records. It shall likewise be unlawful to reveal whether or not any taxpayer has filed a return, and to abstract, compile or furnish to any person, firm or corporation not otherwise entitled to information relating to the amount of income, income tax or other taxes of a taxpayer, any list of names, addresses, social security numbers or other personal information concerning the taxpayer, whether or not the list discloses a taxpayer's income, income tax or other taxes, or any part thereof, except that when an election is made by a husband and wife under G.S. 105-152.1 to file a joint return, any information given to one spouse concerning the income or income tax of the other spouse reported or reportable on the joint return shall not be a violation of the provisions of this section.

Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof; the inspection of these reports or returns by the Governor, Attorney General, or their duly authorized representative; or the inspection by a legal representative of the State of the report or return of any taxpayer who shall bring an action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or penalty imposed by this Subchapter; nor shall the provisions of this section prohibit the Department of Revenue furnishing information to other governmental agencies of persons and firms properly licensed under Schedule B, G.S. 105-33 to 105-113. The Department of Revenue may exchange information with the officers of organized associations of taxpayers under Schedule B, G.S. 105-33 to 105-113,

with respect to parties liable for these taxes and as to parties who have paid these license taxes.

When any record of the Department of Revenue has been photographed, photocopied, or microphotocopied pursuant to the authority contained in G.S. 8-45.3, the original of that record may thereafter be destroyed at any time upon the order of the Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-2, or any other law relating to the preservation of public records. Any record that has not been so photographed, photocopied, or microphotocopied shall be preserved for three years, and thereafter until the Secretary of Revenue orders it destroyed.

Any person, officer, agent, clerk, employee, or local tax official or any former officer, employee, or local tax official who violates the provisions of this section shall be guilty of a ~~misdemeanor and fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000) and/or imprisoned, in the discretion of the court;~~ Class 1 misdemeanor; and if the person committing the violation is a public officer or employee, that person shall be dismissed from such office or employment, and may not hold any public office or employment in this State for a period of five years thereafter.

Notwithstanding the provisions of this section, the Secretary of Revenue may permit the Commissioner of Internal Revenue of the United States, or the revenue officer of any other state imposing any of the taxes imposed in this Subchapter, or the duly authorized representative of either, to inspect the report or return of any taxpayer; or may furnish that person an abstract of the report or return of any taxpayer; or supply that person with information concerning any item contained in any report or return, or disclosed by the report of any investigation of any report or return of any taxpayer. The permission, however, may be granted or the information furnished to the officer or agent only if the statutes of the United States or of the other state grant substantially similar privilege to the Secretary of Revenue of this State or the Secretary's duly authorized representative. Notwithstanding any other provision of law, the Secretary may also furnish names, addresses, and account and identification numbers of (i) taxpayers who may be entitled to property held in the Escheat Fund to the Department of State Treasurer when that Department requests the information for the purpose of administering Chapter 116B of the General Statutes, and (ii) taxpayers to the Employment Security Commission when that Commission requests the information for the purpose of administering Article 2 of Chapter 96 of the General Statutes. Neither this section nor any other law prevents the exchange of information between the Department of Revenue and the

Department of Transportation's Division of Motor Vehicles when the information is needed by either to administer the laws with which they are charged. Notwithstanding any other provision of law, State officers and employees who perform computerized data processing functions pursuant to G.S. 143-341(9) for the Department of Revenue are authorized to receive and process for the Department of Revenue information in reports and returns and are subject to the criminal provisions of this section.

Notwithstanding the provisions of this section, the Secretary of Revenue may contract with any person, firm or corporation to receive and address, sort, bag, or deliver to the United States Postal Service any bulk mailing originated by the Department of Revenue, and may deliver the mail to the contractor pursuant to the contract. To ensure performance of the contract, the contractor shall furnish a bond in a form and amount acceptable to the Secretary.

Notwithstanding the provisions of this section, the Secretary of Revenue may contract with a financial institution for the receipt of withheld income tax payments under G.S. 105-163.6."

-----APPEALS TO PROPERTY TAX COMMISSION

Sec. 713. G.S. 105-290(d)(2) reads as rewritten:

"(2) Any person who shall willfully fail or refuse to appear, to produce subpoenaed documents in response to a subpoena, or to testify as provided in this subsection (d) shall be guilty of a ~~misdemeanor and fined and/or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----POWERS OF REVENUE DEPARTMENT AND COMMISSION

Sec. 714. G.S. 105-291(c)(2) reads as rewritten:

"(2) Any person who shall willfully fail or refuse to appear; to produce subpoenaed documents before the Department or authorized deputy in response to a subpoena; or to testify as provided in this subsection (c) shall be guilty of a ~~misdemeanor and fined and/or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----POWERS AND DUTIES OF COUNTY ASSESSOR

Sec. 715. G.S. 105-296(g) reads as rewritten:

"(g) He shall have power to subpoena any person for examination under oath and to subpoena documents whenever he has reasonable grounds for the belief that such person has knowledge or that such documents contain information that is pertinent to the discovery or valuation of any property subject to taxation in the county or that is necessary for compliance with the requirements as to what the tax list shall contain. The subpoena shall be signed by the chairman of the board of equalization and review if that board is in session; otherwise, it shall be signed by the chairman of the board of county

commissioners. It shall be served by an officer qualified to serve subpoenas. Any person who shall wilfully fail or refuse to appear, produce subpoenaed documents, or testify concerning the subject of the inquiry shall be guilty of a ~~misdemeanor and fined and/or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

Sec. 716. G.S. 105-296(h) reads as rewritten:

"(h) Only after the abstract has been carefully reviewed can the assessor require any person operating a business enterprise in the county to submit a detailed inventory, statement of assets and liabilities, or other similar information pertinent to the discovery or appraisal of property taxable in the county. Inventories, statements of assets and liabilities, or other information secured by the assessor under the terms of this subsection, but not expressly required by this Subchapter to be shown on the abstract itself, shall not be open to public inspection but shall be made available, upon request, to representatives of the Department of Revenue or of the Employment Security Commission. Any assessor or other official or employee disclosing information so obtained, except as may be necessary in listing or appraising property in the performance of official duties, or in the administrative or judicial proceedings relating to listing, appraising, or other official duties, shall be guilty of a Class 3 misdemeanor and punishable only by a fine not exceeding fifty dollars ($50.00)."

-----DUTY TO PROPERTY TO BE ASSESSED LIST; PENALTY FOR FAILURE

Sec. 717. G.S. 105-308 reads as rewritten:

"§ *105-308. Duty to list; penalty for failure.*

Every person in whose name any property is to be listed under the terms of this Subchapter shall list the property with the assessor within the time allowed by law on an abstract setting forth the information required by this Subchapter.

In addition to all other penalties prescribed by law, any person whose duty it is to list any property who willfully fails or refuses to list the same within the time prescribed by law shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment not to exceed six months.~~ Class 2 misdemeanor. The failure to list shall be *prima facie* evidence that the failure was willful.

Any person who willfully attempts, or who willfully aids or abets any person to attempt, in any manner to evade or defeat the taxes imposed under this Subchapter, whether by removal or concealment of property or otherwise, shall be guilty of a ~~misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment~~

~~not to exceed six months or by both such fine and imprisonment.~~ Class 2 misdemeanor."

-----AFFIRMATION OF ABSTRACT OF TAXPAYER'S PROPERTY

Sec. 718. G.S. 105-310 reads as rewritten:

"§ *105-310. Affirmation; penalty for false affirmation.*

There shall be annexed to the abstract on which the taxpayer's property is listed the following affirmation, which shall be signed by an individual qualified under the provisions of G.S. 105- 311:

Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this listing, including any accompanying statements, inventories, schedules, and other information, is true and complete. (If this affirmation is signed by an individual other than the taxpayer, he affirms that he is familiar with the extent and true value of all the taxpayer's property subject to taxation in this county and that his affirmation is based on all the information of which he has any knowledge.)

Any individual who willfully makes and subscribes an abstract listing required by this Subchapter which he does not believe to be true and correct as to every material matter shall be guilty of a ~~misdemeanor and, upon conviction, shall be subject to a fine not to exceed five hundred dollars ($500.00) or imprisonment not to exceed six months.~~ Class 2 misdemeanor."

-----PENALTIES FOR VIOLATIONS FOR FAILURE TO OBTAIN TAX PERMIT

Sec. 719. G.S. 105-316.6 reads as rewritten:

"§ *105-316.6. Penalties for violations.*

(a) Any person required by G.S. 105-316.1 through 105- 316.8 to obtain a tax permit who fails to do so or who fails to properly display same shall be guilty of a ~~misdemeanor and, upon conviction, shall be subject to a fine not to exceed two hundred fifty dollars ($250.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court.~~ Class 3 misdemeanor. This penalty shall be in addition to any penalties imposed for failure to list property for taxation and interest for failure to pay taxes provided by the general laws of this State.

(b) Any manufacturer or retailer of mobile homes who aids or abets any owner covered by G.S. 105-316.1 through 105-316.8 to defeat in any manner the purpose of G.S. 105-316.1 through 105-316.8 shall be guilty of a ~~misdemeanor and, upon conviction, shall be subject to a fine not to exceed two hundred fifty dollars ($250.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court.~~ Class 3 misdemeanor.

(c) Any person who transports a mobile home from a location in this State for an owner other than a manufacturer or retailer of mobile homes without having properly displayed thereon the tax permit

required by G.S. 105-316.1 through 105-316.8 shall be guilty of a ~~misdemeanor and, upon conviction, shall be subject to a fine not to exceed two hundred fifty dollars ($250.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court.~~ Class 3 misdemeanor.

(d) Any law-enforcement officer of this State who apprehends any person violating the provisions of G.S. 105-316.1 through 105-316.8 shall detain such person and mobile home until satisfactory arrangements have been made to meet the requirements of G.S. 105-316.1 through 105-316.8."

-----COUNTY BOARD OF EQUALIZATION AND REVIEW

Sec. 720. G.S. 105-322(g)(3)b. reads as rewritten:

"b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above.

A subpoena issued by the board shall be signed by the chairman of the board, directed to the witness or to the person having custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a ~~misdemeanor and punished by a fine or by imprisonment or by both in the discretion of the court.~~ Class 1 misdemeanor."

-----DUTY TO FILE PUBLIC SERVICE REVENUE REPORT

Sec. 721. G.S. 105-334(b) reads as rewritten:

"(b) Any individual who willfully subscribes a report required by this section which he does not believe to be true and correct as to every material matter shall be guilty of a ~~misdemeanor and, upon conviction, shall be subject to a fine not to exceed five hundred dollars ($500.00) or imprisonment not to exceed six months.~~ Class 2 misdemeanor."

-----DELIVERY OF TAX RECEIPTS TO TAX COLLECTOR

Sec. 722. G.S. 105-352(d) reads as rewritten:

"(d) Civil and Criminal Penalties. --

(1) Any member of the governing body who shall vote to deliver the tax receipts to a tax collector before the tax collector has met the requirements prescribed by this section shall be individually liable for the amount of taxes charged against the tax collector for which he has not made satisfactory

settlement; and any member of the governing body who so votes, or who willfully fails to perform any duty imposed by this section, shall be guilty of a ~~misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court,~~ Class 1 misdemeanor.

(2) Any tax collector or other official who fails to account for prepayments as prescribed by this section shall be guilty of a ~~misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court,~~ Class 1 misdemeanor."

-----PREPAYMENTS MADE BEFORE TAX RECEIPTS DELIVERED

Sec. 723. G.S. 105-359(e) reads as rewritten:

"(e) Duties of Chief Accounting Officer. -- It shall be the duty of the chief accounting officer of the taxing unit to:

(1) Secure and retain in his office, available to taxpayers upon request, the official receipts for taxes paid in full by prepayment.

(2) Credit on the tax receipts to be delivered to the tax collector all taxes that have been paid in full or in part by prepayment.

(3) Prepare and deliver refunds for overpayments made by way of prepayment.

(4) Reduce the charge to be made against the tax collector by deducting from the total amount of taxes levied so much of the amount received as prepayments as is not required to be refunded under the provisions of subsection (c), above.

Any chief accounting officer who fails to perform the duties imposed upon him by this subsection (e) shall be guilty of a ~~misdemeanor and subject to fine or imprisonment, or both, in the discretion of the court,~~ Class 1 misdemeanor."

-----PROCEDURE FOR ATTACHMENT AND GARNISHMENT

Sec. 724. G.S. 105-368(i) reads as rewritten:

"(i) (1) Any person who, after written demand therefor, refuses to give the tax collector or assessor a list of the names and addresses of all of his employees who may be liable for taxes, shall be guilty of a Class 1 misdemeanor.

(2) Any tax collector or assessor who receives, upon his written demand, any list of employees may not release or furnish that list or any copy thereof, or disclose any name or information thereon, to any other person, and may not use that list in any manner or for any purpose not directly related to and in furtherance of the collection and foreclosure of taxes. Any tax collector or assessor who violates or allows the violation of this

subdivision (i)(2) shall be guilty of a Class 1 misdemeanor."

-----ADVERTISEMENT OF TAX LIENS ON REAL PROPERTY FOR FAILURE TO PAY TAXES

Sec. 725. G.S. 105-369(g) reads as rewritten:

"(g) Wrongful Advertisement. -- Any tax collector or deputy tax collector who shall willfully advertise any tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid shall be guilty of a ~~misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned for not more than 30 days, or both,~~ Class 3 misdemeanor, and shall be required to pay the injured party all damages sustained in consequence."

-----SETTLEMENTS OF THE TAX COLLECTOR

Sec. 726. G.S. 105-373(f) reads as rewritten:

"(f) Penalties. -- In addition to any other civil or criminal penalties provided by law, any member of a governing body of a taxing unit, tax collector, or chief accounting officer who fails to perform any duty imposed upon him by this section shall be guilty of a ~~misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court,~~ Class 1 misdemeanor."

-----APPLICATIONS FOR AND ADMINISTRATION OF TAX REFUNDS

Sec. 727. G.S. 105-440(e) reads as rewritten:

"(e) Criminal Penalty. -- A person who knowingly makes a false application for refund to obtain a refund to which he is not entitled is guilty of a ~~misdemeanor and is punishable by a fine of up to five hundred dollars ($500.00), imprisonment for up to two years, or both,~~ Class 1 misdemeanor."

-----GASOLINE TAX CANCELLATION OF LICENSE AND BOND

Sec. 728. G.S. 105-441(a) reads as rewritten:

"(a) Acts. -- Any distributor who commits one or more of the following acts is guilty of a Class 1 misdemeanor:

(1) Fails to obtain a license required by this Article.
(2) Willfully fails to make a report required by this Article.
(3) Willfully fails to pay a tax when due under this Article.
(4) Makes a false statement in an application, a report, or a statement required under this Article.
(5) Fails to keep records as required under this Article.
(6) Refuses to allow the Secretary of Revenue or a representative of the Secretary of Revenue to examine the distributor's books and records concerning motor fuel.
(7) Fails to disclose the correct amount of motor fuel sold or used in this State.

(8) Fails to file an additional bond as required under this Article.

~~On conviction, a distributor shall be fined not less than one hundred dollars ($100.00) and not more than five thousand dollars ($5,000) or, in the case of an individual or the officer or employee charged with the duty of making a report for a corporation, imprisoned not exceeding 24 months, or both.~~"

-----DISTRIBUTOR OFFICER OF STATE FOR COLLECTION OF TAX

Sec. 729. G.S. 105-444 reads as rewritten:

"§ *105-444. License constitutes distributor trust officer of State for collection of tax.*

The licensing of any person, firm or corporation as a wholesale distributor of gasoline shall constitute such distributor an agent or trust officer of the State for the purpose of collecting the tax on the sale of gasoline imposed in this Article. If any person, firm or corporation who or which adds the amount of the tax levied in this Article to the customary market price for gasoline and/or special fuels and collects the same, shall fail to remit the gasoline and/or special fuels tax to the Secretary of Revenue as provided herein, such failure shall be a Class 1 misdemeanor, and any individual, partner or officer or agent of any association, partnership or corporation who shall fail to remit the tax so collected as herein provided when it is his duty to do so shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----REPORTS OF CARRIERS

Sec. 730. G.S. 105-447 reads as rewritten:

"§ *105-447. Reports of carriers.*

Every person, firm or corporation engaged in the business of, or transporting motor fuel, whether common carrier or otherwise, and whether by rail, water, pipeline or over public highways, either in interstate or in intrastate commerce, to points within the State of North Carolina, and every person, firm or corporation transporting motor fuel by whatever manner to a point in the State of North Carolina from any point outside of said State shall be required to keep for a period of two years from the date of each delivery records on forms prescribed by, or satisfactory to, the Secretary of Revenue of all receipts and deliveries of motor fuel so received or delivered to points within the State of North Carolina, including duplicate original copies of delivery tickets or invoices covering such receipts and deliveries, showing the date of the receipt or delivery, the name and address of the party to whom each delivery is made, and the amount of each delivery; and shall report, under oath, to the Secretary of Revenue, on

forms prescribed by said Secretary of Revenue, all deliveries of motor fuel so made to points within the State of North Carolina. Such reports shall cover monthly periods, shall be submitted within the first 10 days of each month covering all shipments transported and delivered for the previous month, shall show the name and address of the person to whom the deliveries of motor fuel have actually and in fact been made, the name and address of the originally named consignee if motor fuel has been delivered to any other than the originally named consignee, the point of origin, the point of delivery, the date of delivery, and the number and initials of each tank car, and the number of gallons contained therein if shipped by rail; the name of the boat, barge or vessel, and the number of gallons contained therein, and the consignor and consignee if shipped by water; the license number of each tank truck and the number of gallons contained therein, and the consignor and consignee if transported by motor truck; if delivered by other means the manner in which such delivery is made; and such other additional information relative to shipments of motor fuel as the Secretary of Revenue may require: Provided, that the Secretary of Revenue may modify or suspend the provisions of this section with regard to reports of interstate or intrastate shipments or deliveries upon application of any licensed distributor: Provided, also, that the Secretary of Revenue shall have full power to require any distributor to make additional reports and to produce for examination duplicate originals of delivery tickets or invoices covering both receipts and deliveries of products as herein provided. The reports herein provided for shall cover specifically gasoline, kerosene, benzine, naphtha, crude oil, or any distillates from crude petroleum. Any person, firm or corporation refusing, failing or neglecting to make such report shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----MOTOR FUEL USED IN PUBLIC SCHOOL TRANSPORTATION

Sec. 731. G.S. 105-449(e) reads as rewritten:

"(e) Any person making a false return or affidavit for the purpose of securing a refund to which he is not entitled under the provisions of this section shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars ($500.00), or imprisoned not exceeding two years, in the discretion of the court.~~ Class 1 misdemeanor."

-----MISDEMEANORS WITH RESPECT TO GASOLINE TAX

Sec. 732. G.S. 105-449.34 reads as rewritten:

"*§ 105-449.34. Acts and omissions declared to be misdemeanors; penalties.*

A person who commits one or more of the following acts is guilty of a Class 1 misdemeanor:

(1) Fails to obtain a license required by this Article.
(2) Willfully fails to make a report required by this Article.
(3) Willfully fails to pay a tax when due under this Article.
(4) Makes a false statement in an application, a report, or a statement required under this Article.
(5) Fails to keep records as required under this Article.
(6) Refuses to allow the Secretary of Revenue or a representative of the Secretary of Revenue to examine the licensee's books and records concerning fuel.
(7) Fails to disclose the correct amount of fuel sold or used in this State.
(8) Fails to file an additional bond as required under this Article."

-----FALSE STATEMENT SALE OF MOTOR FUEL

Sec. 733. G.S. 105-449.41 reads as rewritten:

"§ *105-449.41. Penalty for false statements.*

Any person who wilfully and knowingly makes a false statement orally, or in writing, or in the form of a receipt for the sale of motor fuel, for the purpose of obtaining or attempting to obtain or to assist any other person, partnership or corporation to obtain or attempt to obtain a credit or refund or reduction of liability for taxes under this Article shall be guilty of a Class 1 misdemeanor."

-----OPERATING MOTOR VEHICLE WITHOUT A REGISTRATION CARD

Sec. 734. G.S. 105-449.51 reads as rewritten:

"§ *105-449.51. Violations declared to be misdemeanors.*

Any person who operates or causes to be operated on a highway in this State a motor vehicle that does not carry a registration card as required by this Article, does not properly display an identification marker as required by this Article, or is not registered in accordance with this Article is guilty of a Class 3 misdemeanor and, upon conviction thereof, shall only be fined no less than ten dollars ($10.00) nor more than two hundred dollars ($200.00). Each day's operation in violation of any provision of this section shall constitute a separate offense."

-----EXEMPTION OF MOTOR FUEL USED IN STATE VEHICLES

Sec. 735. G.S. 105-449A(c) reads as rewritten:

"(c) A person who makes a false invoice or application for refund under this section shall be guilty of a ~~misdemeanor, punishable by a fine of up to five hundred dollars ($500.00), imprisonment for up to two years, or both.~~ Class 1 misdemeanor."

-----RECORDS AND REPORTS REQUIRED OF AGRICULTURE FEES OR TAXES

Sec. 736. G.S. 106-9.2(a) reads as rewritten:

"(a) Every person paying fees or taxes to the Commissioner of Agriculture or to the Department of Agriculture under the provisions of this Chapter shall keep such records as the Commissioner may prescribe to indicate accurately the fees or taxes due to the Commissioner or Department, and such records shall be preserved for a period of three years, and shall at all times during the business hours of the day be subject to inspection by the Commissioner or his deputies or such other agents as may be duly authorized by the Commissioner. Any person failing to comply with or violating any of the provisions of this section shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----JOINT DUTIES OF COMMISSIONER AND BOARD OF AGRICULTURE

Sec. 737. G.S. 106-22(3) reads as rewritten:

"(3) Cattle and Cattle Diseases. -- With investigations adapted to promote the improvement of milk and beef cattle, and especially investigations relating to the diseases of cattle and other domestic animals, and shall publish and distribute from time to time information relative to any contagious diseases of stock, and suggest remedies therefor, and shall have power in such cases to quarantine the infected animals and to regulate the transportation of stock in this State, or from one section of it to another, and may cooperate with the United States Department of Agriculture in establishing and maintaining cattle districts or quarantine lines, to prevent the infection of cattle from splenic or Spanish fever. Any person willfully violating such regulations shall be liable in a civil action to any person injured, and for any and all damages resulting from such conduct, and shall also be guilty of a Class 1 misdemeanor;".

Sec. 738. G.S. 106-22(5) reads as rewritten:

"(5) Insect Pests. -- With investigations relative to the ravages of insects and with the dissemination of such information as may be deemed essential for their abatement, and making regulations for destruction of such insects. The willful violation of any of such regulations by any person shall be a Class 1 misdemeanor;".

-----NORTH CAROLINA FERTILIZER LAW OF 1977

Sec. 739. G.S. 106-50.41 reads as rewritten:

"§ *106-50.41. Penalties.*

Any person violating the provisions of this Article or the regulations adopted thereunder, shall be guilty of a ~~misdemeanor and shall be fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000) or be imprisoned for not more than 60 days, or both, in the discretion of the court.~~ Class 2 misdemeanor. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Commissioner each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

-----FALSIFICATION OF RECORDS, OR MISUSE OF PESTICIDE

Sec. 740. G.S. 106-65.33 reads as rewritten:

"*§ 106-65.33. Violation of Article, falsification of records, or misuse of registered pesticide a misdemeanor.*

Any person who shall be adjudged to have violated any provision of this Article or who falsifies any records required to be kept by this Article or by the rules and regulations pursuant to this Article or who uses a registered pesticide in a manner inconsistent with its labeling shall be guilty of a ~~misdemeanor, and for each violation shall be liable for a penalty of not less than one hundred dollars ($100.00) or not more than one thousand dollars ($1,000) or shall be imprisoned for not less than 60 days nor more than six months, or both.~~ Class 2 misdemeanor. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Committee, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

-----INTERFERENCE WITH THE COMMISSIONER OF AGRICULTURE

Sec. 741. G.S. 106-65.48 reads as rewritten:

"*§ 106-65.48. Criminal penalties; violation of law or regulations.*

If anyone shall interfere with or attempt to interfere with the Commissioner or any of his agents, while engaged in the performance of his duties under this Article, or shall violate any provision of this Article or any regulation of the Board of Agriculture adopted pursuant to this Article, he shall be guilty of a ~~misdemeanor and shall be fined not less than fifty dollars ($50.00) nor more than two hundred fifty dollars ($250.00), or imprisoned for not less than 10 nor more than 30 days, for each offense.~~ Class 3 misdemeanor. Each day's violation shall constitute a separate offense."

-----BOLL WEEVIL ERADICATION

Sec. 742. G.S. 106-65.78 reads as rewritten:

"*§ 106-65.78. Penalties.*

(a) Any person who shall violate any of the provisions of this Article or the regulations promulgated hereunder, or who shall alter,

forge or counterfeit, or use without authority, any certificate or permit or other document provided for in this Article or in the regulations promulgated hereunder, shall be guilty of a ~~misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000) or by imprisonment not exceeding one year, or both, in the discretion of the court.~~ Class 1 misdemeanor.

(b) Any person who shall, except in compliance with the regulations of the Commissioner, move any regulated article into this State from any other state which the Commissioner found in such regulations is infested by the boll weevil, shall be guilty of a ~~misdemeanor and shall be subject to the penalties provided in subsection (a) hereof.~~ Class 1 misdemeanor."

-----SALE OF AGRICULTURAL LIMING MATERIALS AND LANDPLASTER

Sec. 743. G.S. 106-92.14 reads as rewritten:

"§ *106-92.14. Penalties for violations of this Article.*

Any person convicted of violating any provision of this Article or the rules and regulations promulgated thereunder shall be guilty of a Class 3 misdemeanor and fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000) in the discretion of the court. Nothing in this Article shall be construed as requiring the Commissioner or his authorized agent to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the Article when he believes that the public interest will best be served by a suitable written warning."

-----FOOD, DRUGS, AND COSMETICS

Sec. 744. G.S. 106-124(a) reads as rewritten:

"(a) Any person, firm or corporation violating any provision of this Article, or any regulation of the Board adopted pursuant to this Article, shall be guilty of a ~~misdemeanor, and for each violation shall be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000), or shall be imprisoned for not more than 60 days, or both.~~ Class 2 misdemeanor. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Commissioner, or his duly designated agent, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

-----RENDERING OPERATIONS OR COLLECTING RAW MATERIAL

Sec. 745. G.S. 106-168.15 reads as rewritten:

"§ *106-168.15. Violation a misdemeanor.*

Any person conducting rendering operations or collecting raw material in violation of the provisions of this Article shall be guilty of a ~~misdemeanor and shall, upon conviction, be punished in the discretion of the court,~~ Class 1 misdemeanor."

-----SALE OF IMMATURE APPLES

Sec. 746. G.S. 106-189.2(b) reads as rewritten:

"(b) Any person, firm or corporation violating the provisions of this section shall be guilty of a Class 3 misdemeanor and shall be punished only by a fine of not less than one hundred dollars ($100.00). Each day on which apples are sold or offered for sale in violation of the provisions of this section shall constitute a separate violation."

-----MARKETING AND BRANDING FARM PRODUCTS

Sec. 747. G.S. 106-196 reads as rewritten:

"*§ 106-196. Violation of Article or regulations a misdemeanor.*

Any person who violates any provision of this Article, or of the rules and regulations made under the Article for carrying out its provisions, or fails or refuses to comply with any requirement thereof, or who wilfully interferes with agents or employees in the execution, or on account of the execution, of his or their duties, shall be guilty of a Class 3 misdemeanor. ~~Any person convicted of a misdemeanor under this Article shall be punished by a fine of not more than one hundred dollars ($100.00), or by imprisonment in the county jail for not more than 30 days, or by both in the discretion of the court.~~"

-----SHIPPING FRUIT OR VEGETABLES NOT HAVING GROWER'S OR SHIPPER'S NAME

Sec. 748. G.S. 106-197 reads as rewritten:

"*§ 106-197. Shipping fruit or vegetables not having grower's or shipper's name stamped on receptacle a misdemeanor.*

Any person or persons, firm or corporation selling or offering for sale or consignment any barrel, crate, box, or other case, package or receptacle containing any berries, fruit, melons, potatoes, vegetables, truck or produce of any kind whatsoever, to be shipped to any point within or without the State, without the true name of the grower or packer either written, printed, stamped or otherwise placed thereon in distinct and legible characters, shall be guilty of a ~~misdemeanor and fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor. This section shall not apply to railroads, express companies and other transportation companies selling or offering for sale for transportation or storage charges or any other charges accruing to said railroads, express companies or other transportation companies any barrel, crate, box, or other case, package or receptacle containing berries, fruit, melons, potatoes, vegetables, truck or produce."

-----PLANT PROTECTION AND CONSERVATION ACT

Sec. 749. G.S. 106-202.19(a1) reads as rewritten:

"(a1) Any person convicted of violating this Article, or any rule of the Board adopted pursuant to this Article shall be guilty of a Class 3 misdemeanor, and for a first violation shall only be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00); and upon a subsequent conviction shall only be fined not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1000). Each illegal movement or distribution of a protected plant shall constitute a separate violation. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Board, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

-----NORTH CAROLINA EGG LAW

Sec. 750. G.S. 106-245.24(a) reads as rewritten:

"(a) Any person who violates any provision of this Article shall be guilty of a ~~misdemeanor, punishable by a fine of not less than twenty-five dollars ($25.00) and not more than two hundred dollars ($200.00), or imprisonment for not more than 30 days, or both.~~ Class 3 misdemeanor."

-----RECORDS AND HANDLING OF PROCESSED EGGS

Sec. 751. G.S. 106-245.38(a) reads as rewritten:

"(a) It shall be a Class 1 misdemeanor for any handler knowingly to report falsely to the Department the quantity of eggs or processed eggs handled by him during any period, to falsify the records of the eggs or processed eggs handled by him, to fail to keep a complete record of the eggs or processed eggs handled by him, or to fail to preserve the records for a period of not less than two years from the time the eggs or processed eggs are handled."

-----INSPECTION OF ICE CREAM PLANTS, CREAMERIES, AND CHEESE FACTORIES

Sec. 752. G.S. 106-255 reads as rewritten:

"*§ 106-255. Violation of Article a misdemeanor; punishment.*

Any person, firm, or corporation who shall violate any of the provisions of this Article shall be guilty of a Class 3 misdemeanor, and upon conviction thereof shall only be fined not to exceed twenty-five dollars ($25.00) for the first offense, and for each subsequent offense in the discretion of the court."

-----RECORDS AND REPORTS OF MILK PRODUCERS AND PROCESSORS

Sec. 753. G.S. 106-266 reads as rewritten:"

"*§ 106-266. Violation made misdemeanor.*

Any person, firm, or corporation violating any of the provisions of this Article and/or any rule, regulation or order promulgated in accordance with the provisions of this Article shall be guilty of a ~~misdemeanor, and shall, upon conviction thereof, be fined not more than one thousand dollars ($1,000), or be imprisoned for not more than one year, or both fined and imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----REGULATION OF MILK AND CREAM

Sec. 754. G.S. 106-266.14 reads as rewritten:

"§ *106-266.14. Penalties.*

Any person violating any provisions of this Article, or order promulgated under the provisions thereof, or of any license issued by the Commission shall be guilty of a Class 1 misdemeanor ~~and may be prosecuted and punished therefor, and upon conviction, shall be punished by a fine of not less than twenty-five dollars ($25.00) and not more than one hundred dollars ($100.00), or by imprisonment in the county jail for not less than 30 days nor more than one year, or by both fine and imprisonment~~, and each day during which such violation shall continue shall be deemed a separate violation. Prosecutions for violations of this Article shall be instituted by the Attorney General or otherwise, in any county or city of the State of North Carolina in which such violations occur."

-----REPRESENTATIVE AVERAGE SAMPLE OF CREAM OR MILK

Sec. 755. G.S. 106-267.4 reads as rewritten:

"§ *106-267.4. Representative average sample; misdemeanor, what deemed.*

In taking samples of milk or cream from any milk can, cream can or any container of milk or cream, the contents of such milk can, cream can, or container of milk and cream shall first be thoroughly mixed either by stirring or otherwise, and the sample shall be taken immediately after mixing or by any other method which gives a representative average sample of the contents, and it is hereby made a Class 2 misdemeanor to take samples by any method or to fraudulently manipulate such samples so as not to give an accurate and representative average sample where milk or cream is bought or sold and where the value of said milk or cream is determined by the butterfat contained therein."

-----INSPECTION, GRADING, AND TESTING OF DAIRY PRODUCTS

Sec. 756. G.S. 106-268.1 reads as rewritten:

"§ *106-268.1. Penalties.*

Any person, firm or corporation violating any of the provisions of this Article, or any of the rules, regulations or standards promulgated

hereunder, shall be deemed guilty of a ~~misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars ($100.00) and the cost of prosecution, or by imprisonment in the county jail for a period of not more than two months, or both such fine and imprisonment in the discretion of the court.~~ Class 2 misdemeanor."

-----FALSE CERTIFICATION OF PUREBRED CROP SEEDS MADE MISDEMEANOR

Sec. 757. G.S. 106-275 reads as rewritten:

"§ *106-275. False certification of purebred crop seeds made misdemeanor.*

It shall be a Class 1 misdemeanor~~, punishable by fine or imprisonment in the discretion of the court,~~ for any person, firm, association, or corporation, selling seeds, tubers, plants, or plant parts in North Carolina, to use any evidence of certification, such as a blue tag or the word 'certified' or both, on any package of seed, tubers, plants, or plant parts, nor shall the word 'certified' be used in any advertisement of seeds, tubers, plants, or plant parts, unless such commodities used for plant propagation shall have been duly inspected and certified by the agency of certification provided for in this Article, or by a similar legally constituted agency of another state or foreign country."

-----NORTH CAROLINA SEED LAW

Sec. 758. G.S. 106-277.24 reads as rewritten:

"§ *106-277.24. Penalty for violations.*

Any person, firm or corporation violating any provision of this Article or any rule or regulation adopted pursuant thereto shall be guilty of a Class 3 misdemeanor and upon conviction thereof shall only pay a fine of not more than five hundred dollars ($500.00)."

-----INTERFERENCE WITH COMMISSIONER OF AGRICULTURE

Sec. 759. G.S. 106-284.20 reads as rewritten:

"§ *106-284.20. Interference with Commissioner, etc., or other violation a misdemeanor; penalties.*

If anyone shall interfere with or attempt to interfere with the Commissioner or any of his agents, while engaged in the performance of his duties under this law or shall violate any provision of this law or any rule or regulation of the Board of Agriculture adopted pursuant to this law, he shall be guilty of a ~~misdemeanor and shall be fined and imprisoned in the discretion of the court.~~ Class 1 misdemeanor. Each day's violation shall constitute a separate offense."

-----COMMERCIAL FEED LAW

Sec. 760. G.S. 106-284.44(a) reads as rewritten:

"(a) Any person who shall be adjudged to have violated any provision of this Article, or any regulation of the Board adopted pursuant to this Article, shall be guilty of a ~~misdemeanor, and for each violation shall be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) or shall be imprisoned for not more than 60 days, or both.~~ Class 2 misdemeanor. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Commissioner, or his duly designated agent, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

Sec. 761. G.S. 106-284.44(f) reads as rewritten:

"(f) Any person who uses to his own advantage, or reveals to other than the Board, or officers of the other State agencies whose requests are deemed justifiable by the Commissioner, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this Article, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a ~~misdemeanor and shall be subject upon conviction to the penalties contained in subsection (a) of this section;~~ Class 2 misdemeanor; provided, that this prohibition shall not be deemed as prohibiting the Commissioner, or his duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States government, or of the other states, who are similarly prohibited by law from revealing this information."

-----RULES ON QUARANTINE OF LIVESTOCK AND POULTRY

Sec. 762. G.S. 106-307 reads as rewritten:

"*§ 106-307. Violation of proclamation or rules.*

Any person, firm, or corporation violating the terms of the proclamation of the Governor, or any rule or regulation made by the Commissioner of Agriculture in pursuance thereof, shall be guilty of a ~~misdemeanor and fined not in excess of five hundred dollars ($500.00) or imprisoned up to six months, or both fined and imprisoned, in the discretion of the court.~~ Class 2 misdemeanor."

-----FAILURE TO INOCULATE QUARANTINED POULTRY

Sec. 763. G.S. 106-307.6 reads as rewritten:

"*§ 106-307.6. Violation made misdemeanor.*

Any person, firm or corporation who shall violate any provisions set forth in G.S. 106-307.1 to 106-307.5 or any rule or regulation duly established by the State Board of Agriculture shall be guilty of a ~~misdemeanor and shall be fined not in excess of five hundred dollars ($500.00) or imprisoned up to six months, or both fined and imprisoned, in the discretion of the court.~~ Class 2 misdemeanor."

-----BURIAL OF HOGS DYING NATURAL DEATH REQUIRED

Sec. 764. G.S. 106-310 reads as rewritten:

"*§ 106-310. Burial of hogs dying natural death required.*

It shall be the duty of every person, firm, or corporation who shall lose a hog by any form of natural death to have the same buried in the earth to a depth of at least two feet within 12 hours after the death of the animal. Any person, firm, or corporation that shall fail to comply with the terms of this section shall be guilty of a Class 3 misdemeanor, and shall be fined not less than five dollars ($5.00) nor more than ten dollars ($10.00) for each offense, at the discretion of the court."

-----HOGS AFFECTED WITH CHOLERA TO BE SEGREGATED AND CONFINED

Sec. 765. G.S. 106-311 reads as rewritten:

"*§ 106-311. Hogs affected with cholera to be segregated and confined.*

If any person having swine affected with the disease known as hog cholera, or any other infectious or contagious disease, who discovers the same, or to whom notice of the fact shall be given, shall fail or neglect for one day to secure the diseased swine from the approach of or contact with other hogs not so affected, by penning or otherwise securing and effectually isolating them so that they shall not have access to any ditch, canal, branch, creek, river or other watercourse which passes beyond the premises of the owners of such swine, he shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor."

-----SHIPPING HOGS FROM CHOLERA-INFECTED TERRITORY

Sec. 766. G.S. 106-312 reads as rewritten:

"*§ 106-312. Shipping hogs from cholera-infected territory.*

It shall be unlawful for any person, firm or corporation in any district or territory infected by cholera to bring, carry, or ship hogs into any stock-law section or territory, unless such hogs have been certified to be free from cholera either by the farm demonstration agent of the county or some other suitable person to be designated by the clerk of the superior court. Any violation of this section shall constitute a Class 1 misdemeanor."

-----MANUFACTURE AND USE OF SERUM ANTI-HOG-CHOLERA AND VIRUS

Sec. 767. G.S. 106-314 reads as rewritten:

"*§ 106-314. Manufacture and use of serum and virus restricted.*

It shall be unlawful for any person, firm, or corporation to distribute, sell, or use in the State anti-hog-cholera serum unless said anti-hog-cholera serum is produced at the serum plant of the State Department of Agriculture, or produced in a plant which is licensed

by the Biological Products Licensing Section, Animal Inspection and Quarantine Division, Agricultural Research Service of the United States Department of Agriculture, allowing said plant to do an interstate business.

It shall be unlawful for any person, firm, or corporation to distribute, sell, or use in the State of North Carolina, virulent blood from hog-cholera-infected hogs, or virus, unless said virulent blood, or virus, is produced at the serum plant of the State Department of Agriculture or produced in a plant which is licensed by the Biological Products Licensing Section, Animal Inspection and Quarantine Division, Agricultural Research Service of the United States Department of Agriculture, allowing said plant to do an interstate business. No virulent blood from hog-cholera-infected hogs, or virus, shall be distributed, sold or used in the State unless and until permission has been given in writing by the State Veterinarian for such distribution, sale or use. Said permission to be cancelled by the State Veterinarian when necessary.

Any person, firm, or corporation guilty of violating the provisions of this section or failing or refusing to comply with the requirements thereof shall be guilty of a Class 1 misdemeanor."

-----RESTRICTING USE OF VIRULENT HOG-CHOLERA VIRUS

Sec. 768. G.S. 106-316.4 reads as rewritten:

"§ *106-316.4. Penalties for violation of §§ 106-316.1 to 106-316.5.*

Any person, firm or corporation violating the provisions of G.S. 106-316.1 to 106-316.5 shall be guilty of a ~~misdemeanor, and upon the first conviction shall be fined not less than fifty dollars ($50.00) or imprisoned in the discretion of the court. For a second offense, any such violator shall be fined not less than two hundred dollars ($200.00) or imprisoned in the discretion of the court, or both.~~ Class 1 misdemeanor."

-----HOG CHOLERA

Sec. 769. G.S. 106-321 reads as rewritten:

"§ *106-321. Penalties for violation.*

Any person, firm or corporation who shall violate any provision set forth in this Article or any rule or regulation duly established by the State Board of Agriculture or emergency rules and regulations established by the Commissioner of Agriculture shall be guilty of a ~~misdemeanor and shall be fined or imprisoned, or both, in the discretion of the court,~~ Class 1 misdemeanor."

-----ANIMAL TUBERCULOSIS

Sec. 770. G.S. 106-349 reads as rewritten:

"§ *106-349. Violation of law a misdemeanor.*

Any person or persons who shall violate any provision set forth in G.S. 106-336 to 106-350, or any rule or regulation duly established

by the State Board of Agriculture or any officer or inspector who shall willfully fail to comply with any provisions of this law, shall be guilty of a Class 1 misdemeanor."

-----DUTY OF THE SHERIFF IN TICK ERADICATION

Sec. 771. G.S. 106-360 reads as rewritten:

"§ *106-360. Duty of sheriff.*

It shall be the duty of the sheriff, in any county in which the work of tick eradication is in progress, to render all quarantine inspectors any assistance necessary in the enforcement of G.S. 106-351 to 106-363 and the regulations of the North Carolina Department of Agriculture. If the sheriff of any county shall neglect, fail or refuse to render his assistance when so required, he shall be guilty of a ~~misdemeanor and be punishable at the discretion of the court.~~ Class 1 misdemeanor."

-----CATTLE TICKING

Sec. 772. G.S. 106-362 reads as rewritten:

"§ *106-362. Penalty for violation.*

Any person, firm or corporation who shall violate any provisions set forth in G.S. 106-351 to 106-363 or any rule or regulation duly established by the State Board of Agriculture, or any officer or inspector who shall willfully fail to comply with any provision of G.S. 106-351 to 106-363 shall be guilty of a Class 1 misdemeanor."

-----BRUCELLOSIS

Sec. 773. G.S. 106-397 reads as rewritten:

"§ *106-397. Violation made misdemeanor.*

Any person or persons who shall violate any provision set forth in G.S. 106-388 to 106-398, or any rule or regulation duly established pursuant to this Article by the State Board of Agriculture or any inspector who shall willfully fail to comply with any provisions of G.S. 106-388 to 106-398, shall be guilty of a Class 1 misdemeanor."

-----PUNISHMENT FOR SALE OF ANIMALS KNOWN TO BE INFECTED, OR UNDER QUARANTINE

Sec. 774. G.S. 106-398 reads as rewritten:

"§ *106-398. Punishment for sale of animals known to be infected, or under quarantine.*

Any person or persons who shall willfully and knowingly sell or otherwise dispose of any animal or animals known to be affected with brucellosis, or under quarantine because of suspected exposure to brucellosis, except as provided for in G.S. 106-388 to 106-398, shall be guilty of a ~~misdemeanor, and punishable by a fine of not less than fifty dollars ($50.00) and not more than two hundred dollars ($200.00), or imprisoned for a term of not less than 30 days or more than two years.~~ Class 1 misdemeanor."

-----ANIMALS AFFECTED WITH GLANDERS TO BE KILLED

Sec. 775. G.S. 106-404 reads as rewritten:

"§ *106-404. Animals affected with glanders to be killed.*

If the owner of any animal having the glanders or farcy shall omit or refuse, upon discovery or knowledge of its condition, to deprive the same of life at once, he shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----CONTROL OF LIVESTOCK DISEASES

Sec. 776. G.S. 106-405 reads as rewritten:

"§ *106-405. Violation made misdemeanor.*

Any person or persons who shall knowingly and willfully violate any provision of G.S. 106-400 to 106-403 shall be guilty of a ~~misdemeanor and punishable by a fine not in excess of five hundred dollars ($500.00) or imprisonment not in excess of six months, or both fine and imprisonment.~~ Class 2 misdemeanor."

-----FEEDING GARBAGE TO SWINE

Sec. 777. G.S. 106-405.9 reads as rewritten:

"§ *106-405.9. Penalties.*

Any person, firm or corporation who shall knowingly violate any provisions set forth in this Part or any rule or regulation duly established by the State Board of Agriculture, or any officer or inspector who shall willfully fail to comply with any provisions of this Part shall be guilty of a ~~misdemeanor and shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor. Such person, firm, or corporation may be enjoined from continuing such violation."

-----EQUINE INFECTIOUS ANEMIA

Sec. 778. G.S. 106-405.19 reads as rewritten:

"§ *106-405.19. Violation made misdemeanor.*

Any person who shall willfully move, direct the movement, or allow to be moved, from the premises where quartered any animal or animals known to be infected with equine infectious anemia, or under quarantine because of suspected exposure to equine infectious anemia, or who shall violate any provision of this Part or any rule or regulation promulgated by the Board of Agriculture under this Part shall be guilty of a ~~misdemeanor and shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or imprisoned, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----REGULATION OF USE OF LIVESTOCK REMOVED FROM MARKET; SWINE SHIPPED OUT OF STATE

Sec. 779. G.S. 106-411 reads as rewritten:

"§ *106-411. Regulation of use of livestock removed from market; swine shipped out of State.*

Any person or persons who shall remove, or whose agent or employee at the direction of the employer, shall remove from a public livestock market any cattle, swine, or other livestock for immediate slaughter shall use them for immediate slaughter only or resale for immediate slaughter only in compliance with this Article and the applicable regulations of the Department of Agriculture. It shall be a Class 1 misdemeanor for the owner of any cattle, swine or other livestock purchased for immediate slaughter, to order, direct or procure his agent or employee to transport said cattle, swine, or other livestock to any place other than a recognized slaughter plant or as provided in G.S. 106-409 and 106-410; and the agent or employee who transports said animal or animals shall likewise be guilty of a Class 1 misdemeanor.

Provided that, it shall not be a violation of law to ship swine out of this State to holding or feeding lots as provided for in G.S. 106-410."

-----TRANSPORTATION, SALE, ETC., OF DISEASED LIVESTOCK

Sec. 780. G.S. 106-414 reads as rewritten:

"*§ 106-414. Transportation, sale, etc., of diseased livestock; burden of proving health; movement to laboratory; removal of identification.*

No cattle, swine, or other livestock with visible symptoms of a contagious or infectious disease shall be transported or otherwise moved on any public highway or street in this State except upon written permission of the Commissioner of Agriculture or his authorized representative. The burden of proof to establish the health of any animal transported on the public highways of this State, or sold, traded, or otherwise disposed of in any public place shall be upon the vendor. Any person who shall sell, trade, or otherwise dispose of any animal affected with, or exposed to, a contagious or infectious disease, or one he has or should have reason to believe is so affected, or exposed, shall be civilly liable for all damages resulting from such sale or trade; provided that, nothing in this section shall prevent an individual who owns or has custody of sick animals from transporting sick or dead animals to a disease diagnostic laboratory operated or approved by the North Carolina Department of Agriculture if reasonable and proper precautions to prevent the exposure of other animals is taken by the owner or transporter thereof.

It shall be a Class 1 misdemeanor to remove before slaughter any ear tag, back tag, or other mark of identification approved by the Commissioner of Agriculture for identifying animals for disease control purposes unless prior written authorization has been obtained from the State Veterinarian or his authorized representative."

-----RESPONSIBILITY FOR HEALTH, ETC., OF ANIMALS

Sec. 781. G.S. 106-417 reads as rewritten:

"*§ 106-417. Violation made misdemeanor; responsibility for health, etc., of animals.*

Any person, firm, or corporation who shall knowingly violate any provisions set forth in this Article or any rule or regulation duly established by the State Board of Agriculture, or any officer or inspector who shall willfully fail to comply with any provisions of this Article, shall be guilty of a ~~misdemeanor, and shall be fined or imprisoned or both, in the discretion of the court.~~ Class 1 misdemeanor. A market operating under this Article shall not be responsible for the health or death of an animal sold through such market if the provisions of this Article have been complied with."

-----ATTEMPT TO PREVENT INSPECTION OF PREMISES INTERFERENCE WITH THE COMMISSIONER OF AGRICULTURE

Sec. 782. G.S. 106-423.1 reads as rewritten:

"*§ 106-423.1. Criminal penalties; violation of laws or regulations.*

If anyone shall attempt to prevent inspection of his premises as provided in the preceding sections, or shall otherwise interfere with the Commissioner of Agriculture, or any of his agents, while engaged in the performance of his duties under this Article, or shall violate any provisions of this Article or any regulations of the Board of Agriculture adopted pursuant to this Article, he shall be guilty of a ~~misdemeanor and shall be fined not less than five ($5.00) nor more than fifty dollars ($50.00), or imprisoned for not less than 10 nor more than 30 days, for each offense.~~ Class 3 misdemeanor. Each day's violation shall constitute a separate offense."

-----LEASING AND LICENSING OF PROPERTY BY SUPERINTENDENT; MANNER OF OPERATING WAREHOUSE SYSTEM

Sec. 783. G.S. 106-439 reads as rewritten:

"*§ 106-439. Leasing and licensing of property by superintendent; manner of operating warehouse system.*

The State warehouse superintendent shall have the power to lease for State operation by State employees and for stated terms property for the warehousing by the State of cotton and other agricultural commodities. The State warehouse superintendent shall also have the power to lease from, and to license private or corporate warehouse property for the warehousing of such agricultural commodities under State license, general supervision and control, as a component unit of the State warehouse system. The terms and conditions of the State license shall prevail over the stated terms and conditions of the lease. In no event, however, regardless of the terms and conditions of the lease, shall any rental be paid by the State until the operating expenses of the leased warehouse facility shall have been paid from the income

from the leased warehouse facility. The State shall not be responsible in any case for the payment of rental, except from the income of any leased warehouse facility in excess of the operating expenses of the facilities. The State warehouse superintendent shall fix the terms upon which private or corporate warehouses may be permitted to operate under State license and supervision, and obtain the benefits thereof, regardless of the terms and conditions of any lease agreement between the private or corporate warehouse and the State. It shall be his special duty to foster and encourage the erection of warehouses in the various cotton-growing and agricultural counties of the State for operation under the terms of this Article, and to provide an adequate system of inspection, and of rules, forms, and reports to insure the security of the system, such matters to be approved by the State Board of Agriculture. The violation of such rules shall be a Class 1 misdemeanor. Cotton and other agricultural products may be stored in such warehouses by any person owning them, and receive all of the benefits accruing from operation of such warehouses under direct State management, or as the case may be, under State license, general supervision and regulation, as component units of the State warehouse system and any person permitted to store cotton or other products in any such warehouse shall pay to the manager of the warehouse such sum or sums for rent or storage as may be agreed upon, subject to G.S. 106-432, by the manager, and such person desiring storage therein."

-----NUMBERING OF COTTON BALES BY PUBLIC GINNERIES

Sec. 784. G.S. 106-451.1 reads as rewritten:

"*§ 106-451. Numbering of cotton bales by public ginneries; public gin defined.*

(a) Any person, firm or corporation operating any public cotton gin, that is, any cotton gin other than one ginning solely for the individual owner, owners, or operators thereof, shall hereafter be required to distinctly and clearly number, serially, each and every bale of cotton ginned, in one of the following ways:

(1) Attach a metal strip carrying the serial number to one of the ties of the bale and ahead of the tie lock, and so secure it that ordinary handling will not remove or disfigure the number.

(2) Impress the serial number upon one of the bands or ties around the bale.

Any person, firm or corporation failing or refusing to comply with this section shall be guilty of a ~~misdemeanor for each and every offense, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor.

(b) Any person, firm or corporation buying a bale of cotton on which this number has: (i) been removed; (ii) defaced by cutting; (iii) or otherwise altered, unless a new metal strip is attached and impression made by the original gin ginning said bale or bales of cotton, shall be guilty of a Class 3 misdemeanor for each and every offense ~~and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not more than 30 days~~.

(c) Every public ginnery, as defined in subsection (a) of this section, shall keep a book in which shall be registered all cotton received at the gin to be ginned in the name of the owner of the cotton and the name of the person from whom the cotton is received for ginning. Any person giving false information for entry in this book shall be guilty of a Class 1 misdemeanor. There shall be furnished by the ginner for each bale of cotton ginned, to the owner thereof, a gin ticket bearing the name of the gin, the serial number of the bale prescribed by subsection (a) of this section, the weight of the bale and the name of the owner of the cotton. Such gin ticket shall be presented, for comparison with the serial number prescribed in subsection (a) of this section, at the time such bale is sold or offered for sale, as prima facie evidence of ownership thereof."

-----PURCHASERS OF COTTON TO KEEP RECORDS OF PURCHASES

Sec. 785. G.S. 106-451 reads as rewritten:

"§ *106-451.1. Purchasers of cotton to keep records of purchases.*

Every cotton broker or other person buying cotton from the producer after it is ginned shall keep a record of such purchase for a period of one year from date of purchase. This record shall contain the name and address of the seller of the cotton, the date on which purchased, the weight or amount and the serial number of the bales provided for by G.S. 106-451. Any person violating the provisions of this section shall be guilty of a ~~misdemeanor and shall, upon conviction, be fined or imprisoned in the discretion of the court;~~ Class 1 misdemeanor: Provided, any person, firm or corporation who purchases cotton which has been ginned outside this State shall be required to keep only so much of the records hereinabove specified as purchasers are required to keep by the law of the state where said cotton was ginned."

-----COTTON WAREHOUSE ACT

Sec. 786. G.S. 106-451.28 reads as rewritten:

"§ *106-451.28. Violation a misdemeanor; fraudulent or deceptive acts.*

Any person who shall violate any provision of this Article or who shall engage in any fraudulent or deceptive practice in the operation of a warehouse licensed under this Article shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be fined not more~~

~~than ten thousand dollars ($10,000) or double the value of the cotton involved, whichever is more, or imprisoned for not more than two years, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----WAREHOUSE PROPRIETOR, ETC., TO RENDER BILL OF CHARGES; PENALTY

Sec. 787. G.S. 106-454 reads as rewritten:

"§ *106-454. Warehouse proprietor, etc., to render bill of charges; penalty.*

The owner, operator, or person in charge of each warehouse shall render to each seller of tobacco at the warehouse a bill plainly stating the amount charged for weighing and handling, the amount charged for auction fees, and the commission charged on such sale, and it shall be unlawful for any other charge or fees to be made or accepted. Any person, firm, corporation, or any employee thereof, violating the provisions of this section shall be guilty of a Class 3 misdemeanor ~~and fined not less than one hundred dollars ($100.00) nor more than two hundred and fifty dollars ($250.00) and/or imprisoned not to exceed 30 days~~ for the first offense, and for the second or additional offenses a Class 2 misdemeanor. ~~fined not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000) or imprisoned for not less than 30 days or more than six months, or both fined and imprisoned, in the discretion of the court.~~"

-----TOBACCO PURCHASES TO BE PAID FOR BY CASH OR CHECK TO ORDER

Sec. 788. G.S. 106-455 reads as rewritten:

"§ *106-455. Tobacco purchases to be paid for by cash or check to order.*

The proprietor of each and every warehouse shall pay for all tobacco sold in said warehouse either in cash or by giving to the seller a check payable to his order in his full name or in his surname and initials and it shall be unlawful to use any other method. Every person, firm or corporation violating the provisions hereof shall, in addition to any and all civil liability which may arise by law, be guilty of a ~~misdemeanor and, upon conviction thereof, shall be punishable by fine not exceeding one hundred dollars ($100.00) or imprisonment not exceeding 30 days, or both, in the discretion of the court.~~ Class 3 misdemeanor."

-----LEAF TOBACCO SALES

Sec. 789. G.S. 106-464 reads as rewritten:

"§ *106-464. Violation made misdemeanor.*

Any person, firm or corporation violating the provisions of G.S. 106-461 to 106-463 shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----TOBACCO BOARDS OF TRADE; PRICE FIXING PROHIBITED

Sec. 790. G.S. 106-465 reads as rewritten:

"*§ 106-465. Organization and membership of tobacco boards of trade; rules and regulations; fire insurance and extended coverage required; price fixing prohibited.*

Tobacco warehousemen and the purchasers of leaf tobacco, at auction, on warehouse floors, are hereby authorized to organize, either as nonstock corporations, or voluntary associations, tobacco boards of trade in the several towns and cities in North Carolina in which leaf tobacco is sold on warehouse floors, at auction.

Such tobacco boards of trade as may now exist, or which may hereafter be organized, are authorized to make reasonable rules and regulations for the economical and efficient handling of the sale of leaf tobacco at auction on the warehouse floors in the several towns and cities in North Carolina in which an auction market is situated.

Each tobacco board of trade organized pursuant to this section shall, on or before June 1, 1973, by regulation, require that all auction warehouse firms which are members of, or may hereafter request membership in, such board of trade for the purpose of displaying for sale and selling leaf tobacco, deposit with the board of trade prior to the market opening, a copy of a policy of fire insurance and extended coverage in a company licensed to do business in North Carolina to fully insure, as determined by the board of trade, the market value of the maximum volume of tobacco that will be weighed and left displayed for sale on said warehouse floor at any time during the marketing season. Warehouses using mechanized conveyor-line auction sales where tobacco is not displayed for sale on sales floor would be excluded from the requirement of this regulation.

In determining the market value and maximum volume of tobacco that will be weighed and placed on said warehouse floor at any one time, the board of trade shall use as criteria the prior season's official gross average price for that belt, as recorded by the North Carolina Department of Agriculture and the maximum limit of daily sales, as recommended by the currently functioning flue-cured and burley tobacco marketing organizations, applied to each warehouse based on the firm's pro rata share of the market's maximum limit daily sales opportunity, multiplied times the number of days of sales that said warehouse plans to place on sales floor at any one time, including any and all tobacco weighed and deposited with the warehouse as bailee for future sale. The data relating to the official average price and the maximum limits of daily sales shall be assembled and supplied by the North Carolina Commissioner of Agriculture or his representative to

the board of trade in each tobacco market in North Carolina, at least 30 days prior to the opening of markets in each belt.

It shall be unlawful for any person, firm, or corporation to operate an auction sale in said market until said policy is so deposited with and approved by the board of trade. The board of trade shall enjoin the sale of tobacco by any warehouse firm that fails to so deposit a policy of fire insurance and extended coverage with the board.

The tobacco boards of trade in the several towns and cities in North Carolina are authorized to require as a condition to membership therein the applicants to pay a reasonable membership fee and the following schedule of maximum fees shall be deemed reasonable, to wit:

A membership fee of fifty dollars ($50.00) in those towns in which less than 3,000,000 pounds of tobacco was sold at auction between the dates of August 20, 1931, and May 1, 1932; a fee of one hundred dollars ($100.00) in those towns in which during said period of time more than 3,000,000 and less than 10,000,000 pounds of tobacco was sold; a fee of one hundred fifty dollars ($150.00) in those towns in which during said period of time more than 10,000,000 and less than 25,000,000 pounds of tobacco was sold; a fee of three hundred dollars ($300.00) in those towns in which during said period of time more than 25,000,000 pounds of tobacco was sold.

Membership, in good standing, in a local board of trade shall be deemed a reasonable requirement by such board of trade as a condition to participating in the business of operating a tobacco warehouse or the purchase of tobacco at auction therein.

Membership in the several boards of trade may be divided into two categories:

(1) Warehousemen;

(2) Purchasers of leaf tobacco other than warehousemen.

Purchasers of leaf tobacco may be: (i) participating or (ii) nonparticipating. The holder of a membership as a purchaser of leaf tobacco shall have the option of becoming, upon written notice to the board of trade, either a participating or a nonparticipating member. Individuals, partnerships, and/or corporations who are members of tobacco boards of trade, established under this section or coming within the provisions of this section, as nonparticipating members shall not participate in or have any voice or vote in the management, conduct, activities, allotment of sales time, and/or hours, the fixing of dates for the opening or closing of tobacco auction markets, or in any other manner or respect. Individuals, partnerships, and/or corporations who are such nonparticipating members in any of the several tobacco boards of trade shall not be responsible or liable for

any of the acts, omissions or commissions of the several tobacco boards of trade.

It shall be unlawful and punishable as of a Class 1 misdemeanor for any bidder or purchaser of tobacco upon warehouse floors to refuse to take and pay for any basket or baskets so bid off from the seller when the seller has or has not accepted the price offered by the purchaser or bidder of other baskets. Any person suspended or expelled from a tobacco board of trade under the provisions of this section may appeal from such suspension to the superior court of the county in which said board of trade is located.

Nothing in this section shall authorize the organization of any association having for its purpose the control of prices or the making of rules and regulations in restraint of trade."

-----DEALERS IN SCRAP TOBACCO

Sec. 791. G.S. 106-469 reads as rewritten:

"§ *106-469. Violation made misdemeanor.*

Any person, firm or corporation violating any of the provisions of this Article shall be guilty of a ~~misdemeanor, and upon conviction shall be fined and/or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----PRACTICES BY HANDLERS OF FRUITS

Sec. 792. G.S. 106-501 reads as rewritten:

"§ *106-501. Violation of Article or rules made misdemeanor.*

Any person who violates the provisions of this Article or the rules and regulations promulgated thereunder shall be guilty of a ~~misdemeanor, and shall be punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than one year, or both.~~ Class 1 misdemeanor."

-----UNLAWFUL ENTRY ON FAIRGROUNDS A MISDEMEANOR

Sec. 793. G.S. 106-514 reads as rewritten:

"§ *106-514. Unlawful entry on grounds a misdemeanor.*

If any person, after having been expelled from the fairgrounds of any agricultural or horticultural society, shall offer to enter the same again without permission from such society; or if any person shall break over [open] the enclosing structure of said fairgrounds and enter the same, or shall enter the enclosure of said fairgrounds by means of climbing over, under or through the enclosing structure surrounding the same, or shall enter the enclosure through the gates without the permission of its gatekeeper or the proper officer of said fair association, he shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----ASSISTING UNLAWFUL ENTRY ON FAIRGROUNDS A MISDEMEANOR

Sec. 794. G.S. 106-515 reads as rewritten:

"§ *106-515. Assisting unlawful entry on grounds a misdemeanor.*

It shall be unlawful for any person or persons to assist any other person or persons to enter upon the grounds of any fair association when an admission fee is charged, by assisting such other person or persons to climb over or go under the fence or by pulling off a plank or to enter the enclosed grounds by any trick or device or by passing out a ticket or a pass or in any other way. Any violation of this section shall be a ~~misdemeanor and punishable by a fine not exceeding twenty dollars ($20.00) or imprisonment not exceeding 10 days.~~ Class 3 misdemeanor."

-----CARNIVALS AND SIMILAR AMUSEMENTS NOT TO OPERATE WITHOUT PERMIT

Sec. 795. G.S. 106-516.1 reads as rewritten:

"§ *106-516.1. Carnivals and similar amusements not to operate without permit.*

Every person, firm, or corporation engaged in the business of a carnival company or a show of like kind, including menageries, merry-go-rounds, Ferris wheels, riding devices, circus and similar amusements and enterprises operated and conducted for profit, shall, prior to exhibiting in any county annually staging an agricultural fair, apply to the sheriff of the county in which the exhibit is to be held for a permit to exhibit. The sheriff of the county shall issue a permit without charge; provided, however, that no permit shall be issued if he shall find the requested exhibition date is less than 30 days prior to a regularly advertised agricultural fair and so in conflict with G.S. 105-37.1(d). Exhibition without a permit from the sheriff of the county in which the exhibition is to be held shall constitute a ~~misdemeanor and be punished by a fine or imprisonment, or both, in the discretion of the court;~~ Class 1 misdemeanor: Provided, that nothing contained in this section shall prevent veterans' organizations and posts chartered by Congress or organized and operated on a statewide or nationwide basis from holding fairs or tobacco festivals on any dates which they may select if such fairs or festivals have heretofore been held as annual events."

-----UNLICENSED VENDING, ETC., NEAR FAIRS

Sec. 796. G.S. 106-518 reads as rewritten:

"§ *106-518. Unlicensed vending, etc., near fairs a misdemeanor.*

Any person violating the provisions of G.S. 106-516 and 106-517 shall be guilty of a ~~misdemeanor, punishable by a fine not to exceed fifty dollars ($50.00) or imprisonment not to exceed 30 days, at the discretion of the court.~~ Class 3 misdemeanor."

-----SUPERVISION OF FAIRS

Sec. 797. G.S. 106-520.7 reads as rewritten:

"§ *106-520.7. Violations made misdemeanor.*

Any person who violates any provision of G.S. 106-520.1 through G.S. 106-520.6 is guilty of a ~~misdemeanor punishable by a fine or imprisonment in the discretion of the court.~~ Class 1 misdemeanor."

-----POULTRY, HATCHERIES, CHICK DEALERS

Sec. 798. G.S. 106-549 reads as rewritten:

"§ *106-549. Violation a misdemeanor.*

Any person, firm or corporation who shall willfully violate any provision of this Article or any rule or regulation duly established by authority of this Article, shall be guilty of a ~~misdemeanor and shall be fined not in excess of five hundred dollars ($500.00) or imprisoned not in excess of six months, or both fined and imprisoned, in the discretion of the court.~~ Class 2 misdemeanor."

-----INSPECTION OF THE SLAUGHTER OF ANIMALS

Sec. 799. G.S. 106-549.27(d) reads as rewritten:

"(d) The slaughter of animals and preparation of articles referred to in paragraphs (a) (2) and (b) of this section shall be conducted in accordance with such sanitary conditions as the Board may by regulations prescribe. Willful violation of any such regulation is a ~~misdemeanor and punishable by a fine of not over five hundred dollars ($500.00) and imprisonment for not over six months or both fine and imprisonment.~~ Class 2 misdemeanor."

-----REGULATION OF STORAGE OF MEAT

Sec. 800. G.S. 106-549.28 reads as rewritten:

"§ *106-549.28. Regulation of storage of meat.*

The Board may by regulations prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, fallow deer, horses, mules, or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the Board deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Willful violation of any such regulation is a ~~misdemeanor and punishable by a fine of not over five hundred dollars ($500.00) and imprisonment for not over six months or both fine and imprisonment.~~ Class 2 misdemeanor."

-----INTERFERENCE WITH MEAT AND POULTRY INSPECTION SERVICE

Sec. 801. G.S. 106-549.34 reads as rewritten:

"§ *106-549.34. Interference with inspector.*

Any person who willfully assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this or the

previous Article shall be guilty of a ~~misdemeanor and fined not more than five hundred dollars ($500.00) or imprisoned for not more than six months or both fined and imprisoned.~~ Class 2 misdemeanor. For the purposes of this section, 'impede,' 'oppose,' and 'intimidate,' or 'interfere' shall include, but not be limited to, the use of profane and indecent language, or any act or gesture, verbal or nonverbal, which tends to cast disrespect on an inspector or the Meat and Poultry Inspection Service. Whoever, in the commission of any such acts, uses a deadly weapon, shall be ~~fined not less than two hundred fifty dollars ($250.00) or not more than one thousand dollars ($1,000) or imprisoned not less than one year or not more than two years, or both,~~ guilty of a Class 1 misdemeanor."

-----FEDERAL AND STATE COOPERATION AS TO MEAT INSPECTION; IMPLEMENTATION OF INSPECTION

Sec. 802. G.S. 106-549.36(c) reads as rewritten:

"(c) Any person, firm, or corporation that shall neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or its power to do so, in obedience to the subpoena or lawful requirement of the Commissioner shall be guilty of a ~~misdemeanor and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than six months or by both such fine and imprisonment.~~ Class 2 misdemeanor.

(1) Any person, firm, or corporation that shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Article, or that shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any person, firm, or corporation subject to this Article or that shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such person, firm, or corporation, or that shall willfully remove out of the jurisdiction of this State, or willfully mutilate, alter, or by any other means falsify any documentary evidence of any such person, firm, or corporation or that shall willfully refuse to submit to the Commissioner or to any of his authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm, or corporation in his possession or within his control, shall be deemed guilty of ~~an offense and shall be subject, upon conviction in any court of competent jurisdiction to a fine of not more than five~~

~~hundred dollars ($500.00) or to imprisonment for a term of not more than six months or to both such fine and imprisonment.~~ a Class 2 misdemeanor.

(2) If any person, firm, or corporation required by this Article to file any annual or special report shall fail so to do within the time fixed by the Commissioner for filing the same, and such failure shall continue for 30 days after notice of such default, such person, firm, or corporation shall forfeit to this State the sum of one hundred dollars ($100.00) for each and every day of the continuance of such failure, which forfeiture shall be payable into the general fund of this State, and shall be recoverable in a civil suit in the name of the State brought in the superior court where the person, firm, or corporation has his or its principal office or in Wake County. It shall be the duty of the Attorney General of this State, to prosecute for the recovery of such forfeitures. The costs and expenses of such prosecution shall be paid out of the amount recovered in such action.

(3) Any officer or employee of this State who shall make public any information obtained by the Commissioner without his authority, unless directed by a court, shall be deemed guilty of a ~~misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment, not exceeding six months or by both such fine and imprisonment, in the discretion of the court.~~ Class 2 misdemeanor."

-----POULTRY PRODUCTS INSPECTION ACT

Sec. 803. G.S. 106-549.68(c)(1) reads as rewritten:

"(1) Any person that shall neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or its power to do so, in obedience to the subpoena or lawful requirement of the Commissioner shall be guilty of ~~an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or by imprisonment for not more than one year, or by both such fine and imprisonment.~~ Class 1 misdemeanor."

Sec. 804. G.S. 106-549.68(c)(2) reads as rewritten:

"(2) Any person that shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Article, or that shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any person subject to this

Article or that shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of any person subject to this Article or that shall willfully remove out of the jurisdiction of this State, or willfully mutilate, alter, or by any other means falsify any documentary evidence of any such person, or that shall willfully refuse to submit to the Commissioner or to any of his authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this Article in his or its possession or within his or its control, shall be deemed guilty of a ~~misdemeanor and shall be subject, upon conviction in any court of competent jurisdiction to a fine of not less than five hundred dollars ($500.00) nor more than five thousand dollars ($5,000), or to imprisonment for a term of not more than two years, or to both such fine and imprisonment.~~ Class 1 misdemeanor."

Sec. 805. G.S. 106-549.68(c)(4) reads as rewritten:

"(4) Any officer or employee of this State who shall make public any information obtained by the Commissioner without his authority, unless directed by a court, shall be deemed guilty of a ~~misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding two thousand dollars ($2,000), or by imprisonment, not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.~~ Class 1 misdemeanor."

-----SUBMISSION OF FORMULA TO SELL ANTIFREEZE

Sec. 806. G.S. 106-579.11 reads as rewritten:

"*§ 106-579.11. Submission of formula.*

When application for a license or permit to sell antifreeze in this State is made to the Commissioner, he may require the applicant to furnish a statement of the formula or contents of such antifreeze, which said statement shall conform to rules and regulations established by the Commissioner; provided, however, that the statement of formula or contents may state the content of inhibitor ingredients in generic terms if such inhibitor ingredients total less than five percent (5%) by weight of the antifreeze and if in lieu thereof the manufacturer, packer, seller or distributor furnishes the Commissioner with satisfactory evidence, other than by disclosure of the actual chemical names and percentages of the inhibitor ingredients, that the said antifreeze is in conformity with this Article and any rules and regulations promulgated and adopted by the Board. All statements of content, formulas or trade secrets furnished under

this section shall be privileged and confidential and shall not be made public or open to the inspection of any person, firm, association or corporation other than the Commissioner. All such statements of contents shall not be subject to subpoena nor shall the same be exhibited or disclosed before any administrative or judicial tribunal by virtue of any order or subpoena of such tribunal unless with the consent of the applicant furnishing such statements to the Commissioner; provided, however, that in emergency situations information may be revealed to physicians or to other qualified persons for use in preparation of antidotes. The disclosure of any such information, except as provided in this section, shall be a Class 2 misdemeanor."

-----NORTH CAROLINA ANTIFREEZE LAW

Sec. 807. G.S. 106-579.12(a) reads as rewritten:

"(a) Any person who shall be adjudged to have violated any provision of this Article, or any regulation of the Board adopted pursuant to this Article, shall be guilty of a ~~misdemeanor, and for each violation shall be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) or shall be imprisoned for not more than 60 days, or both.~~ Class 2 misdemeanor. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Commissioner, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

-----GRAIN DEALERS

Sec. 808. G.S. 106-614 reads as rewritten:

"§ *106-614. Violation a misdemeanor.*

Any person who violates any provision of this Article or any rule or regulation of the Board of Agriculture promulgated hereunder shall be guilty of a ~~misdemeanor and upon conviction thereof fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) or imprisoned for not more than 60 days, or both fined and imprisoned.~~ Class 2 misdemeanor. In case of a continuing violation or violations, each day and each violation occurring constitutes a separate and distinct offense."

-----BEE AND HONEY ACT OF 1977

Sec. 809. G.S. 106-644(a) reads as rewritten:

"(a) If anyone shall attempt to prevent inspection as provided in this Article or shall otherwise interfere with the Commissioner of Agriculture, or any of his agents, while engaging in the performance of his duties under this Article, or shall violate any provisions of this Article or any regulation of the Board of Agriculture adopted pursuant to this Article, he shall be guilty of a ~~misdemeanor and shall be fined~~

~~not less than fifty dollars ($50.00) or imprisoned for not more than 30 days, for each offense.~~ Class 3 misdemeanor. Each day's violation shall constitute a separate offense."

-----MANUFACTURE AND SALE OF COMMERCIAL FERTILIZER

Sec. 810. G.S. 106-668 reads as rewritten:

"*§ 106-668. Punishment for violations.*

Each of the following offenses shall be a Class 1 misdemeanor and any person upon conviction thereof shall be punished as provided by law for the punishment of Class 1 misdemeanors:

(1) To manufacture, offer for sale, or sell in this State any mixed fertilizer or fertilizer materials containing any substance that is injurious to crop growth or deleterious to the soil, or to use in such mixed fertilizer or fertilizer materials as a filler any substance with the effect of defrauding the purchaser.

(2) To offer for sale or to sell in this State for fertilizer purposes any raw or untreated leather, hair, wool waste, hoof, horn, rubber or similar nitrogenous materials, the plant food content of which is largely unavailable, either as such or mixed with other fertilizer materials.

(3) To make any false or misleading representation in regard to any mixed fertilizer or fertilizer material shipped, sold or offered for sale by him in this State, or to use any misleading or deceptive trademark or brand in connection therewith. The sale or offer for sale of any mixture of nitrogenous fertilizer materials under a name or other designation descriptive of only one of the components of the mixture shall be considered deceptive and fraudulent.
The Commissioner is authorized to refuse registration for any commercial fertilizer with respect to which this section is violated.

(4) The filing with the Commissioner of any false statement of fact in connection with the registration under G.S. 106-660 of any commercial fertilizer.

(5) Forcibly obstructing the Commissioner or any official inspector authorized by the Commissioner in the lawful performance by him of his duties in the administration of this Article.

(6) Knowingly taking a false sample of commercial fertilizer for use under provisions of this Article; or knowingly submitting to the Commissioner for analysis a false sample thereof; or making to any person any false representation with regard to any commercial fertilizer sold or offered for

sale in this State for the purpose of deceiving or defrauding such other person.

(7) The fraudulent tampering with any lot of commercial fertilizer so that as a result thereof any sample of such commercial fertilizer taken and submitted for analysis under this Article may not correctly represent the lot; or tampering with any sample taken or submitted for analysis under this Article, if done prior to such analysis and disposition of the sample under the direction of the Commissioner.

(8) The delivery to any person by the fertilizer chemist or his assistants or other employees of the Commissioner of a report that is willfully false and misleading on any analysis of commercial fertilizer made by the Department in connection with the administration of this Article.

(9) Selling or offering for sale in this State commercial fertilizer without marking the same as required by G.S. 106-661.

(10) Selling or offering for sale in this State commercial fertilizer containing less than the minimum content required by G.S. 106-659.

(11) Failure of any manufacturer, importer, jobber, agent, or dealer to have applied for and to have been issued a permit as required by G.S. 106-671 before selling, offering, or exposing for sale or distributing commercial fertilizers in this State.

(12) Failure of any manufacturer or contractor to procure a license under the provisions of G.S. 106-660(d) before beginning operations within the State."

-----NORTH CAROLINA BIOLOGICS LAW OF 1981

Sec. 811. G.S. 106-714(a) reads as rewritten:

"(a) Any person adjudged to have violated any provision of this Article or the rules and regulations promulgated thereunder is guilty of a ~~misdemeanor punishable by a fine of no less than one hundred dollars ($100.00) per violation and no more than one thousand dollars ($1,000), or imprisonment for no less than 60 days and no more than six months, or both.~~ Class 2 misdemeanor. The Attorney General or his representative has concurrent jurisdiction with the district attorneys of this State to prosecute violations under this section."

-----GENETICALLY ENGINEERED ORGANISMS ACT

Sec. 812. G.S. 106-776(c) reads as rewritten:

"(c) A person who interferes with or attempts to interfere with the Commissioner or any of his agents while engaged in the performance of their duties under this Article, or violates any provision of this

Article or any rule of the Board, is guilty of a Class 3 misdemeanor and is punishable only by a fine of not less than two hundred fifty dollars ($250.00) nor more than one thousand dollars ($1,000) for each offense. Each day's violation shall constitute a separate offense."

-----FRAUDULENT MISREPRESENTATION OF PUBLIC ASSISTANCE

Sec. 813. G.S. 108A-39 reads as rewritten:

"§ *108A-39. Fraudulent misrepresentation.*

(a) Any person whether provider or recipient, or person representing himself as such, who willfully and knowingly and with intent to deceive makes a false statement or representation or who fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact obtains, for himself or another person, attempts to obtain for himself or another person, or continues to receive or enables another person to continue to receive public assistance in the amount of not more than four hundred dollars ($400.00) is guilty of a ~~misdemeanor, and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.~~ Class 1 misdemeanor.

(b) Any person, whether provider or recipient, or person representing himself as such who willfully and knowingly with the intent to deceive makes a false statement or representation or fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact, obtains for himself or another person, attempts to obtain for himself or another person, or continues to receive or enables another person to continue to receive public assistance in an amount of more than four hundred dollars ($400.00) is guilty of a Class I felony.

(c) As used in this section the word "person" means person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization."

-----FRAUDULENT MISREPRESENTATION OF FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

Sec. 814. G.S. 108A-53 reads as rewritten:

"§ *108A-53. Fraudulent misrepresentation.*

(a) Any person, whether provider or recipient or person representing himself as such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which he is not entitled in the amount of two thousand dollars ($2,000) or less shall be guilty of a Class 1 misdemeanor. Whoever knowingly obtains

or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which he is not entitled in an amount more than two thousand dollars ($2,000) shall be guilty of a felony and shall be punished as in cases of larceny.

(b) Whoever presents, or causes to be presented, food stamps or authorization cards for payment or redemption, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Part or the regulations issued pursuant to this Part shall be guilty of a ~~misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.~~ Class 1 misdemeanor.

(c) Whoever receives any food stamps for any consumable item knowing that such food stamps were procured fraudulently under subsections (a) and/or (b) of this section shall be guilty of a ~~misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.~~ Class 1 misdemeanor.

(d) Whoever receives any food stamps for any consumable item whose exchange is prohibited by the United States Department of Agriculture shall be guilty of a ~~misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.~~ Class 1 misdemeanor."

-----SUBROGATION RIGHTS UNDER A MEDICAL ASSISTANCE PROGRAM

Sec. 815. G.S. 108A-57(b) reads as rewritten:

"(b) It shall be a Class 1 misdemeanor for any person seeking or having obtained assistance under this Part for himself or another to willfully fail to disclose to the county department of social services or its attorney the identity of any person or organization against whom the recipient of assistance has a right of recovery, contractual or otherwise."

-----PROTECTION OF PATIENT PROPERTY UNDER A MEDICAL ASSISTANCE PROGRAM

Sec. 816. G.S. 108A-60(b) reads as rewritten:

"(b) A violation of subdivision (a)(1) of this section shall be a ~~misdemeanor punishable by a fine of not more than two thousand dollars ($2,000) or imprisonment for not more than two years, or both, in the discretion of the court.~~ Class 1 misdemeanor. A violation of subdivision (a)(2) of this section shall be a Class I felony."

-----MEDICAL ASSISTANCE RECIPIENT FRAUD

Sec. 817. G.S. 108A-64(c)(2) reads as rewritten:

"(2) A person who violates a provision of this section shall be guilty of a Class 1 misdemeanor if the value of the assistance wrongfully obtained is four hundred dollars ($400.00) or less. ~~less, and shall be punished by a term of imprisonment of not more than two years or a fine of not more than five hundred dollars ($500.00), or both, at the discretion of the court.~~"

-----CONFLICTS WITH STATE PERSONNEL IN STATE MEDICAL ASSISTANCE PROGRAMS

Sec. 818. G.S. 108A-65(b) reads as rewritten:

"(b) Violation of this statute is a ~~general~~ Class 1 misdemeanor."

-----RECIPIENT CHECK REGISTER/ LIST OF ALL RECIPIENTS OF AFDC AND STATE-COUNTY SPECIAL ASSISTANCE

Sec. 819. G.S. 108A-80(b) reads as rewritten:

"(b) The Department shall furnish a copy of the recipient check register monthly to each county auditor showing a complete list of all recipients of Aid To Families with Dependent Children and State-County Special Assistance for Adults, their addresses, and the amounts of the monthly grants. This register shall be a public record open to public inspection during the regular office hours of the county auditor, but said register or the information contained therein may not be used for any commercial or political purpose. Any violation of this section shall constitute a Class 1 misdemeanor."

Sec. 820. G.S. 108A-80(c) reads as rewritten:

"(c) Any listing of recipients of benefits under any public assistance or social services program compiled by or used for official purposes by a county board of social services or a county department of social services shall not be used as a mailing list for political purposes. This prohibition shall apply to any list of recipients of benefits of any federal, State, county or mixed public assistance or social services program. Further, this prohibition shall apply to the use of such listing by any person, organization, corporation, or business, including but not limited to public officers or employees of federal, State, county, or other local governments, as a mailing list for political purposes. Any violation of this section shall be punishable as a ~~general~~ Class 1 misdemeanor."

-----EXHIBITION OF CHILDREN

Sec. 821. G.S. 110-20.1(e) reads as rewritten:

"(e) Any violation of this Article shall be a ~~misdemeanor which, upon conviction, shall be punished by a fine of not less than five dollars ($5.00) nor more than fifty dollars ($50.00) or imprisonment for not more than 30 days, or both such fine and imprisonment.~~ Class 3 misdemeanor. Each day during which any violation of this Article

continues after notice to the violator, from any county social services director, to cease and desist from any violation of this section shall constitute a separate and distinct offense. Any act or omission forbidden by this Article shall, with respect to each child described therein constitute a separate and distinct offense."

-----CONTROL OVER CHILD CARE FACILITIES

Sec. 822. G.S. 110-48 reads as rewritten:

"§ *110-48. Violation a misdemeanor.*

Any person violating any of the provisions of G.S. 110-45, 110-46 and 110-47 shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned, or both, in the discretion of the court,~~ Class 1 misdemeanor."

-----PLACING OR ADOPTION OF JUVENILE DELINQUENTS OR DEPENDENTS

Sec. 823. G.S. 110-55 reads as rewritten:

"§ *110-55. Violation of Article a misdemeanor.*

Every person acting for himself or for an agency who violates any of the provisions of this Article or who shall intentionally make any false statements to the Social Services Commission or the Secretary of Human Resources or an employee thereof acting for the Department in an official capacity in the placing or adoption of juvenile delinquents or dependents shall, upon conviction thereof, be guilty of a ~~misdemeanor and punished by a fine of not more than two hundred dollars ($200.00) or by imprisonment for not more than six months, or by both such fine and imprisonment.~~ Class 2 misdemeanor."

-----DAY CARE FACILITIES

Sec. 824. G.S. 110-103 reads as rewritten:

"§ *110-103. Criminal penalty.*

Any person who violates the provisions of G.S. 110-98 through G.S. 110-100 or G.S. 110-102 shall be guilty of a ~~general~~ Class 1 misdemeanor. Any person who violates G.S. 110-101 shall be guilty of a ~~misdemeanor punishable by a fine not to exceed three hundred dollars ($300.00), imprisonment for not more than 30 days, or both.~~ Class 3 misdemeanor."

-----FRAUD IN OBTAINING ASSISTANCE FOR THE NEEDY BLIND

Sec. 825. G.S. 111-23 reads as rewritten:

"§ *111-23. Misrepresentation or fraud in obtaining assistance.*

Any person who shall obtain, or attempt to obtain, by means of a willful, false statement, or representation, or impersonation, or other fraudulent devices, assistance to which he is not entitled shall be guilty of a ~~misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment in the county jail for not more than three months, or by both such fine~~

~~and imprisonment.~~ Class 2 misdemeanor. The superior court and the recorders' courts shall have concurrent jurisdiction in all prosecutions arising under this Article."

-----SPECULATION IN PENSION CLAIMS A MISDEMEANOR

Sec. 826. G.S. 112-32 reads as rewritten:

"*§ 112-32. Speculation in pension claims a misdemeanor.*

Any person who shall speculate or purchase for a less sum than that to which each may be entitled the claims of any soldier or sailor or widow of a deceased soldier or sailor, allowed under the provisions of this Article, shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned, or both in the discretion of the court.~~ Class 1 misdemeanor."

-----TAKING FEES FOR ACKNOWLEDGMENTS BY PENSIONERS

Sec. 827. G.S. 112-36 reads as rewritten:

"*§ 112-36. Taking fees for acknowledgments by pensioners.*

It shall be unlawful for any clerk of the superior court, notary public or any magistrate to charge any Confederate pensioner or the widow of such Confederate pensioner receiving a pension from the State of North Carolina for taking acknowledgments in connection with pension papers.

Any person violating any of the provisions of this section shall be deemed guilty of a ~~misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----NOTICE BEFORE MANUFACTURING FROM MINERAL RESOURCES

Sec. 828. G.S. 113-25 reads as rewritten:

"*§ 113-25. Notice to Department before beginning business of manufacturing products from mineral resources of State.*

Every person, firm or corporation engaging in the manufacture or production of any product from any natural resources, classified as mineral products, shall before beginning such operation, or if already engaged in such business, within 90 days after March 9, 1927, notify the Department of its intention to begin or continue such business, and also notify said Department of the product or products it intends to produce.

Every person, firm or corporation now engaged or hereafter engaging in the manufacture or production of any product from any natural resources of the State classified as mineral products, shall notify the Department when such person, firm or corporation shall discontinue such manufacture or production.

Any person, firm or corporation failing to comply with the provisions of this section shall be guilty of a Class 3 misdemeanor,

and upon conviction shall only be fined not more than twenty-five dollars ($25.00) and not less than five dollars ($5.00), in the discretion of the court."

-----POWER TO ACQUIRE LAND AS STATE FORESTS, PARKS, ETC.

Sec. 829. G.S. 113-34(e) reads as rewritten:

"(e) The Department may make reasonable rules for the regulation of the use by the public of said lands and waters and of public service facilities and conveniences constructed thereon, and said rules shall have the force and effect of law and any violation of such rules shall constitute a ~~misdemeanor and shall be punishable by a fine of not more than fifty dollars ($50.00) or imprisonment of not more than 30 days.~~ Class 3 misdemeanor."

-----DEHNR; FOREST NURSERIES; PARKS; FACILITIES

Sec. 830. G.S. 113-35(a) reads as rewritten:

"(a) Timber and other products of such State forestlands may be sold, cut and removed under rules of the Department. The Department shall have authority to establish and operate forest tree nurseries and forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards may be sold to landowners of the State for purposes of forestation under rules of the Department. When the Secretary determines that a surplus of seedlings or seed exists, this surplus may be sold, and such sale shall be in conformity with the following priority of sale: first, to agencies of the federal government for planting in the State of North Carolina; second, to commercial nurseries and nurserymen within this State; and third, without distinction, to federal agencies, to other states, and to recognized research organizations for planting either within or outside of this State. The Department shall make reasonable rules for the regulation of the use by the public of such and all State forests, State parks, State lakes, game refuges and public shooting grounds under its charge, which rules, after having been posted in conspicuous places on and adjacent to such properties of the State and at the courthouse of the county or counties in which such properties are situated shall have the force and effect of law and any violation of such rules shall constitute a ~~misdemeanor and shall be punishable by a fine of not more than fifty dollars ($50.00) or by imprisonment for not exceeding 30 days.~~ Class 3 misdemeanor."

Sec. 831. G.S. 113-35(d) reads as rewritten:

"(d) The Department may also grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department shall deem to be in the public interest. The Department may make reasonable rules for the regulation of the use by the public of the public service

facilities and conveniences herein authorized, which rules shall have the force and effect of law, and any violation of such rules shall constitute a ~~misdemeanor and shall be punishable by a fine of not more than fifty dollars ($50.00) or by imprisonment for not exceeding 30 days.~~ Class 3 misdemeanor."

-----POWERS OF FOREST RANGERS/FIRES

Sec. 832. G. S. 113-55(a) reads as rewritten:

"(a) Forest rangers shall prevent and extinguish forest fires and shall have control and direction of all persons and equipment while engaged in the extinguishing of forest fires. During a season of drought, the Secretary or his designate may establish a fire patrol in any district, and in case of fire in or threatening any forest or woodland, the forest ranger shall attend forthwith and use all necessary means to confine and extinguish such fire. The forest ranger or deputy forest ranger may summon any resident between the ages of 18 and 45 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors and other property needed for such purposes; any person so summoned and who is physically able who refuses or neglects to assist or to allow the use of equipment and such other property required shall be guilty of a Class 3 misdemeanor and upon conviction shall only be subject to a fine of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00). No action for trespass shall lie against any forest ranger, deputy forest ranger, or person summoned by him for crossing lands, backfiring, burning out or performing his duties as a forest ranger or deputy forest ranger."

-----MISDEMEANOR TO DESTROY POSTED FORESTRY NOTICE

Sec. 833. G.S. 113-58 reads as rewritten:

"*§ 113-58. Misdemeanor to destroy posted forestry notice.*

Any person who shall maliciously or willfully destroy, deface, remove, or disfigure any sign, poster, or warning notice, posted by order of the Secretary, under the provisions of this Article, or any other act which may be passed for the purpose of protecting and developing the forests in this State, shall be guilty of a ~~misdemeanor and upon conviction shall be punishable by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor."

-----ENTRY UPON WOODLANDS OR WATERS FOR HUNTING, FISHING OR TRAPPING/CAMPFIRE OR BURNING BRUSH, GRASS OR OTHER DEBRIS

Sec. 834. G.S. 113-60.3 reads as rewritten:

"*§ 113-60.3. Violation of proclamation a misdemeanor.*

Any person, firm or corporation who enters upon any woodlands or inland waters of the State for the purpose of hunting, fishing or trapping, or who builds a campfire or burns brush, grass or other debris within 500 feet of any woodland, after a proclamation has been issued by the Governor forbidding such activities, or who violates any other provisions of the Governor's proclamation with regard to permissible activities in closed woodlands shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----REGULATION OF OPEN FIRES

Sec. 835. G.S. 113-60.29 reads as rewritten:

"§ *113-60.29. Penalties.*

Any person violating the provisions of this Article or of any permit issued under the authority of this Article shall be guilty of a ~~misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned for a period of not more than 30 days, or both, in the discretion of the court.~~ Class 3 misdemeanor. The penalties imposed by this section shall be separate and apart and not in lieu of any civil or criminal penalties which may be imposed by G.S. 143-215.114A or G.S. 143-215.114B. The penalties imposed are also in addition to any liability the violator incurs as a result of actions taken by the Department under G.S. 113-60.28."

-----JURISDICTION OF CONSERVATION AGENCIES

Sec. 836. G.S. 113-135 reads as rewritten:

"§ *113-135. General penalties for violating Subchapter or rules; increased penalty for prior convictions; interpretive provisions.*

(a) Any person who violates any provision of this Subchapter or any rule adopted by the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate, pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment for violation of the rules of the Wildlife Resources Commission is limited as set forth in G.S. 113-135.1. Unless a different level of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is punishable as follows:

(1) For a first conviction, ~~a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) or imprisonment not to exceed 30 days,~~ as a Class 3 misdemeanor.

(2) For a second or subsequent conviction within one year, ~~a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), imprisonment not to exceed 90 days, or both,~~ as a Class 2 misdemeanor.

(b) In interpreting this section, provisions elsewhere in this Subchapter making an offense a misdemeanor 'punishable in the

discretion of the court' must be considered to set a different level of punishment, to be interpreted in the light of G.S. 14-3 or any equivalent or successor statute. Noncriminal sanctions, however, such as license revocation or suspension, and exercise of powers auxiliary to criminal prosecution, such as seizure of property involved in the commission of an offense, do not constitute different levels of punishment so as to oust criminal liability. Any previous conviction of an offense under this Subchapter, or under rules authorized by it, serves to increase the punishment under subsection (a) even though for a different offense than the second or subsequent one.

(c) For the purposes of this Subchapter, violations of laws or rules administered by the Wildlife Resources Commission under any former general or local law replaced by the present provisions of this Subchapter are deemed to be violations of laws or rules under this Subchapter."

-----DEPOSITION OF CONFISCATED PROPERTY

Sec. 837. G.S. 113-137(f) reads as rewritten:

"(f) Subject to orders of his administrative superiors, an inspector or protector in his discretion may leave property which he is authorized to seize in the possession of the defendant with the understanding that such property will be subject to the orders of the court upon disposition of the case. Willful failure or inexcusable neglect of the defendant to keep such property subject to the orders of the court is a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor. In exercising his discretion, the inspector or protector should not permit property to be retained by the defendant if there is any substantial risk of its being used by the defendant in further unlawful activity."

-----USE OF PLANES IN COMMERCIAL FISHING OPERATIONS

Sec. 838. G.S. 113-167(b) reads as rewritten:

"(b) Unlawful Activity. -- The following activities involving the use of a spotter plane in a commercial fishing operation are unlawful:

(1) To use a spotter plane directed at food fish, except in connection with a purse seine operation authorized by a rule of the Marine Fisheries Commission;

(2) To use or permit the use of an unlicensed spotter plane or a licensed spotter plane whose license application does not identify the specific commercial fishing operation involved;

(3) To participate knowingly in a commercial fishing operation that uses an unlicensed spotter plane or a licensed spotter plane whose license application does not identify the specific commercial fishing operation involved.

Violation of this subsection is a ~~misdemeanor punishable by a fine of the greater of one thousand dollars ($1,000) or the value of any plane,~~

~~vessel, or catch seized in accordance with G.S. 113-137, by imprisonment for up to two years, or both.~~ Class 1 misdemeanor."

-----REGULATION OF COASTAL FISHERIES

Sec. 839. G.S. 113-187 reads as rewritten:

"*§ 113-187. Penalties for violations of Subchapter and rules.*

(a) Any person who participates in a commercial fishing operation conducted in violation of any provision of this Subchapter and its implementing rules or in an operation in connection with which any vessel is used in violation of any provision of this Subchapter and its implementing rules is guilty of a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor.

(b) Any owner of a vessel who knowingly permits it to be used in violation of any provision of this Subchapter and its implementing rules is guilty of a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor.

(c) Any person in charge of a commercial fishing operation conducted in violation of any provision of this Subchapter and its implementing rules or in charge of any vessel used in violation of any provision of this Subchapter and its implementing rules is guilty of a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor.

(d) Any person in charge of a commercial fishing operation conducted in violation of the following provisions of this Subchapter or the following rules of the Marine Fisheries Commission; and any person in charge of any vessel used in violation of the following provisions of the Subchapter or the following rules, shall be guilty of a ~~misdemeanor punishable by a fine of not less than two hundred fifty dollars ($250.00) for the first offense and not less than five hundred dollars ($500.00) for any offense thereafter, or imprisonment for not more than six months, or both.~~ Class 2 misdemeanor. The violations of the statute or the rules for which the penalty is mandatory are:

(1) Taking or attempting to take, possess, sell, or offer for sale any oysters, mussels, or clams taken from areas closed by statute, rule, or proclamation because of suspected pollution.

(2) Taking or attempting to take or have in possession aboard a vessel, shrimp taken by the use of a trawl net, in areas not opened to shrimping, pulled by a vessel not showing lights required by G.S. 75A-6 after sunset and before sunrise.

(3) Using a trawl net in any coastal fishing waters closed by proclamation or rule to trawl nets.

(4) Violating the provisions of a special permit or gear license issued by the Department.

(5) Using or attempting to use any trawl net, long haul seine, swipe net, mechanical methods for oyster or clam harvest or dredge in designated primary nursery areas."

-----NEW AND RENEWAL LEASES FOR COASTAL FISHERIES

Sec. 840. G.S. 113-202(o) reads as rewritten:

"(o) Every year between January 1 and February 15 the Secretary must mail to all leaseholders a notice of the annual rental due and include forms designed by him for determining the amount of shellfish or shells planted on the leasehold during the preceding calendar year, and the amount of harvest gathered. Such forms may contain other pertinent questions relating to the utilization of the leasehold in the best interests of the shellfish culture of the State, and must be executed and returned by the leaseholder with the payment of his rental. Any leaseholder or his agent executing such forms for him who knowingly makes a false statement on such forms is guilty of a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----CLAMMING ON POSTED OYSTER ROCKS FORBIDDEN

Sec. 841. G.S. 113-207(b) reads as rewritten:

"(b) It shall be unlawful for any person to take clams on oyster rocks posted by the Department by use of rakes, tongs, or any other device which will disturb or damage the oysters growing thereon. This section will not apply to the taking of clams by signing. A violation of this section shall constitute a ~~misdemeanor, punishable by imprisonment not to exceed 30 days, or by a fine of one hundred dollars ($100.00), or by both such fine and imprisonment.~~ Class 3 misdemeanor."

-----PROTECTION OF PRIVATE SHELLFISH RIGHTS

Sec. 842. G.S. 113-208(a) reads as rewritten:

"(a) It is unlawful for any person, other than the holder of private shellfish rights, to take or attempt to take shellfish from any privately leased, franchised, or deeded shellfish bottom area without written authorization of the holder and with actual knowledge it is a private shellfish bottom area. Actual knowledge will be presumed when the shellfish are taken or attempted to be taken:

(1) From within the confines of posted boundaries of the area as identified by signs, whether the whole or any part of the area is posted, or

(2) When the area has been regularly posted and identified and the person knew the area to be the subject of private shellfish rights.

A violation of this section shall constitute a Class 2 misdemeanor, ~~punishable by imprisonment not to exceed six months, or by~~ which may include a fine of not more than five thousand dollars ($5,000)~~, or~~

~~both such fine and imprisonment~~. The written authorization shall include the lease number or deed reference, name and address of authorized person, date of issuance, and date of expiration, and it must be signed by the holder of the private shellfish right. Identification signs shall include the lease number or deed reference and the name of the holder."

-----MARINE FISHERIES INSPECTORS

Sec. 843. G.S. 113-222 reads as rewritten:

"§ *113-222. Arrest, service of process and witness fees of inspectors.*

All arrest fees and other fees that may be charged in any bill of costs for service of process by inspectors must be paid to the county in which the trial is held. No witness fee may be taxed in any bill of costs by virtue of the appearance of an inspector as a witness in a criminal case within his enforcement jurisdiction. Acceptance by any inspector of any arrest fee, witness fee, or any other fee to which he is not entitled is a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----DREDGE OR FILL/ESTUARINE WATERS OR STATE LAKES

Sec. 844. G.S. 113-229(k) reads as rewritten:

"(k) Any person, firm, or corporation violating the provisions of this section shall be guilty of a ~~misdemeanor, and shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment of not more than 90 days, or both.~~ Class 2 misdemeanor. Each day's continued operation after notice by the Department to cease shall constitute a separate offense. A notice to cease shall be served personally or by certified mail."

-----ORDERS TO CONTROL ACTIVITIES IN COASTAL WETLANDS

Sec. 845. G.S. 113-230(d) reads as rewritten:

"(d) Any person, firm or corporation that violates any order issued under the provisions of this section shall be guilty of a ~~misdemeanor, and shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment for not more than six months, or both in the discretion of the court.~~ Class 2 misdemeanor."

-----TAKING FISH OR WILDLIFE BY DRUGS, EXPLOSIVES OR ELECTRICITY

Sec. 846. G.S. 113-262(a) reads as rewritten:

"(a) Except as otherwise provided in this Subchapter, or in rules permitting use of electricity to take certain fish, it is a Class 2 misdemeanor ~~punishable by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), imprisonment not to exceed 90 days, or both~~ to take any fish or wildlife through the use of poisons, drugs, explosives, or electricity. This subsection does not apply to any person lawfully using any

poison or pesticide under the Structural Pest Control Act of North Carolina of 1955, as amended, or the North Carolina Pesticide Law of 1971, as amended."

-----PROPERTY OF WRC

Sec. 847. G.S. 113-264(b) reads as rewritten:

"(b) Unless a different level of punishment is elsewhere set out, willful removal of, damage to, or destruction of any property of the Department or the Wildlife Resources Commission is a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----INTERFERENCE WITH ARTIFICIAL REEF MARKING DEVICES

Sec. 848. G.S. 113-266 reads as rewritten:

"*§ 113-266. Interference with artificial reef marking devices.*

It shall be a ~~general~~ Class 1 misdemeanor~~, punishable in the discretion of the court pursuant to G.S. 14-3,~~ for any person to destroy, injure, relocate, or remove any navigational aids, buoys, markers, or other devices lawfully set out by the Division of Marine Fisheries in connection with the marking of any artificial reef in the coastal waters of the State and in the Atlantic Ocean to the seaward extent of the State's jurisdiction as now or hereafter defined."

-----ROBBING OR INJURING NETS, SEINES, BUOYS, POTS, ETC.

Sec. 849. G.S. 113-268(d) reads as rewritten:

"(d) Violation of subsections (a), (b), or (c) is a Class 2 misdemeanor ~~punishable~~ for a first conviction, ~~by a fine not to exceed two hundred dollars ($200.00), by imprisonment not to exceed three months, or by both~~ and ~~punishable~~ a Class 1 misdemeanor for a second or subsequent conviction. ~~by a fine not to exceed five hundred dollars ($500.00), by imprisonment not to exceed one year, or by both.~~"

-----ROBBING OR INJURING HATCHERIES AQUACULTURE

Sec. 850. G.S. 113-269(e) reads as rewritten:

"(e) Violation of subsections (b) or (c) for fish or aquatic species valued at more than four hundred dollars ($400.00) is punishable under G.S. 14-72. Violation of subsections (b) or (c) for fish or aquatic species valued at four hundred dollars ($400.00) or less is a ~~misdemeanor punishable by a fine not less than five hundred dollars ($500.00), by imprisonment not to exceed one year, or both.~~ Class 1 misdemeanor."

Sec. 851. G.S. 113-269(f) reads as rewritten:

"(f) Violation of subsection (d) is a ~~misdemeanor punishable by a fine of not less than one thousand dollars ($1,000), by imprisonment for not less than one year, or both.~~ Class 1 misdemeanor."

-----AGENTS FOR THE WILDLIFE RESOURCES COMMISSION

Sec. 852. G.S. 113-270.1(d) reads as rewritten:

"(d) The Wildlife Resources Commission may make rules in implementing the authority granted in subsection (c), but it need not set out in its rules details as to forms of license, records and accounting procedures, and other reasonable requirements that may be administratively promulgated by employees of the Wildlife Resources Commission in implementation of the purposes of this Article in order for such administrative requirements to be deemed validly required. It is a Class 1 misdemeanor ~~punishable in the discretion of the court~~ for a license agent:

(1) To withhold or misappropriate funds from the sale of licenses;
(2) To falsify records of licenses sold;
(3) Wilfully and knowingly to assist or allow a person to obtain a license for which he is ineligible;
(4) Wilfully to issue a backdated license;
(5) Wilfully on records or licenses to include false information or omit material information as to:
    a. A person's entitlement to a particular license; or
    b. The applicability or term of a particular license; or
(6) To refuse to return all consigned licenses, or to remit the net value of consigned licenses sold or unaccounted for, upon demand from an authorized employee of the Wildlife Resources Commission."

Sec. 853. G.S. 113-270.1(h) reads as rewritten:

"(h) Upon termination of the appointment, the former agent must return to the Wildlife Resources Commission all record books, reports, license forms, moneys, and other property pertaining to the license agency, and must allow agents of the Wildlife Resources Commission to conduct necessary inspections and audits required in terminating the license agency. Each day's refusal after termination to return, upon demand, the record books, reports, license forms, moneys, and other property pertaining to the license agency is a separate offense. Each instance of refusal, after termination, to allow agents of the Wildlife Resources Commission to conduct necessary inspections and audits during regular business hours is a separate offense. A violation of this subsection is a ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment not to exceed 90 days, or both.~~ Class 2 misdemeanor. Before termination, violations by license agents are punishable under G.S. 113-135, subsection (d) above, or other provision of this Subchapter, as appropriate."

-----DEALER LICENSES FOR COMMERCIAL GAME AND FISH DEALERS

Sec. 854. G.S. 113-273(h) reads as rewritten:

"(h) Game Bird Propagation License. -- No person may propagate game birds in captivity or possess game birds for propagation without first procuring a license under this subsection. The Wildlife Resources Commission may by rule prescribe the activitles to be covered by the propagation license, which species of game birds may be propagated, and the manner of keeping and raising the birds, in accordance with the overall objectives of conservation of wildlife resources. Except as limited by this subsection, propagated game birds may be raised and sold for purposes of propagation, stocking, food, or taking in connection with dog training as authorized in G.S. 113-291.1(d). Migratory game bird operations authorized under this subsection must also comply with any applicable provisions of federal law and rules. The Wildlife Resources Commission may impose requirements as to shipping, marking packages, banding, tagging, or wrapping the propagated birds and other restrictions designed to reduce the change of illicit game birds being disposed of under the cover of licensed operations. The Wildlife Resources Commission may make a reasonable charge for any bands, tags, or wrappers furnished propagators. The game bird propagation license is issued by the Wildlife Resources Commission upon payment of a fee of five dollars ($5.00). It authorizes a person or individual to propagate and sell game birds designated in the license, in accordance with the rules of the Wildlife Resources Commission, except:

(1) Wild turkey and ruffed grouse may not be sold for food.

(2) Production and sale of pen-raised quail for food purposes is under the exclusive control of the Department of Agriculture. The Wildlife Resources Commission, however, may regulate the possession, propagation, and transportation of live pen-raised quail.

Wild turkey acquired or raised under a game bird propagation license shall be confined in a cage or pen approved by the Wildlife Resources Commission and no such wild turkey shall be released for any purpose or allowed to range free. It is a Class 3 misdemeanor ~~punishable by a fine of not less than one hundred dollars ($100.00) in addition to such other punishment the court may impose in its discretion~~ to sell wild turkey or ruffed grouse for food purposes, to sell quail other than lawfully acquired pen-raised quail for food purposes, or to release or allow wild turkey to range free."

-----LICENSES AND PERMITS DISTRIBUTED BY THE WRC

Sec. 855. G.S. 113-275(j) reads as rewritten:

"(j) It is a Class 1 misdemeanor ~~punishable in the discretion of the court~~ for any person:

(1) Knowingly to engage in any activity regulated under this Article with an improper, false, or altered license or permit;
(2) Knowingly to make any application for a license or permit to which he is not entitled;
(3) Knowingly to make any false, fraudulent, or misleading statement in applying for a license or permit under this Article; or
(4) To counterfeit, alter, or falsify any application, license, or permit under this Article."

-----OBSTRUCTING WILDLIFE AGENT

Sec. 856. G.S. 113-276.2(g) reads as rewritten:

"(g) Upon revocation of a license or permit, the Executive Director or his agent must request return of the license or permit and all associated forms, tags, record books, inventories, invoice blanks, and other property furnished by the Wildlife Resources Commission or required to be kept by the Commission solely in connection with the license or permit. If the person needs to retain a copy of the property returned to the Wildlife Resources Commission for tax purposes or other lawful reason, the person may copy items returned if the copies are clearly marked in a manner that they could not be mistaken for the originals. In securing property to be returned or in otherwise closing out the affairs conducted under the license or permit, agents of the Wildlife Resources Commission may enter at reasonable hours the premises of the person in which wildlife resources or items of property pertaining to the license or permit are kept, or reasonably believed to be kept, to inspect, audit, inventory, remove, or take other appropriate action. Any wildlife resources in the possession of the person which he may no longer possess must be disposed of in accordance with the most nearly appropriate provision of G.S. 113-137. If a person fails to return to an agent of the Wildlife Resources Commission all wildlife resources and other property covered by this subsection; refuses to allow entry by the agent to inspect, audit, remove property, or perform other duties; or otherwise obstructs an agent of the Wildlife Resources Commission in performing his duties under this subsection, he is guilty of a ~~misdemeanor punishable by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), imprisonment not to exceed 90 days, or both.~~ Class 2 misdemeanor. Each day's violation is a separate offense."

Sec. 857. G.S. 113-276.2(i) reads as rewritten:

"(i) The Executive Director is required to make necessary investigations and cause necessary disclosure of information by all persons subject to administrative control, and all applicants for a license or permit that would place them in this category, to determine

that the real party in interest is seeking or has been issued the license or permit. Any attempt to circumvent the provisions of this section is a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----SUSPENSION AND REVOCATION OF WILDLIFE RESOURCES COMMISSION LICENSES

Sec. 858. G.S. 113-277(b) reads as rewritten:

"(b) It is a Class 1 misdemeanor ~~punishable in the discretion of the court~~ for any person during a period of suspension or revocation under the terms of this Article:

(1) To engage in any activity licensed in this Article without the appropriate license or permit;

(2) Knowingly to make any application for a license or permit to which he is not entitled;

(3) Knowingly to make any false, fraudulent, or misleading statement in applying for a license or permit under this Article;

(4) To counterfeit, alter, or falsify any application, license, or permit under this Article;

(5) Knowingly to retain and use any license or permit which has been ordered revoked or suspended under the terms of this Article; or

(6) Willfully to circumvent the terms of suspension or revocation in any manner whatsoever."

-----REMOVAL, DESTRUCTION, OR MUTILATION OF POSTED NOTICES

Sec. 859. G.S. 113-286 reads as rewritten:

"*§ 113-286. Removal, destruction, or mutilation of posted notices.*

Unauthorized removal, destruction, or mutilation of posted notices on registered property is a ~~misdemeanor punishable by a fine of not less than fifty dollars ($50.00), imprisonment not to exceed 90 days, or both.~~ Class 2 misdemeanor."

-----PENALTIES FOR CRIMINALLY NEGLIGENT HUNTING

Sec. 860. G.S. 113-290.1(a) reads as rewritten:

"(a) A person who violates the provisions of this Article is guilty of a misdemeanor punishable as follows:

(1) If property damage only results from the unlawful activity, a ~~fine of not less than two hundred fifty dollars ($250.00) nor more than one thousand dollars ($1,000), or imprisonment not to exceed 60 days, or both, in the discretion of the court,~~ Class 2 misdemeanor, and the court shall order the payment of restitution to the property owner;

(2) If bodily injury not leading to the disfigurement or total or partial permanent disability of another person results from

the unlawful activity, a ~~fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000), or imprisonment not to exceed two years, or both, in the discretion of the court;~~ Class 1 misdemeanor; if property damage also results from the unlawful activity, the court shall order the payment of restitution to the property owner;

(3) If bodily injury leading to the disfigurement or total or partial permanent disability of another person results from the unlawful activity, a ~~fine of not less than seven hundred fifty dollars ($750.00) nor more than two thousand dollars ($2,000), and imprisonment for not less than 15 days nor more than two years;~~ Class 1 misdemeanor; if property damage also results from the unlawful activity, the court shall order the payment of restitution to the property owner;

(4) If death results from the unlawful activity, a ~~fine of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000), and imprisonment for not less than 30 days nor more than two years;~~ Class 1 misdemeanor; if property damage also results from the unlawful activity, the court shall order the payment of restitution to the property owner."

Sec. 861. G.S. 113-290.1(d) reads as rewritten:

"(d) A person convicted of hunting or taking wild animals or wild birds while his hunting license is suspended under this section shall be ~~fined not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000), or imprisoned not to exceed two years, or both,~~ guilty of a Class 1 misdemeanor, and shall have all hunting privileges suspended for an additional five years. The person shall not be issued another hunting license until he has satisfactorily completed the hunter safety course established in G.S. 113-270.1A."

-----MANNER OF TAKING WILD ANIMALS AND WILD BIRDS

Sec. 862. G.S. 113-291.1(c) reads as rewritten:

"(c) It is a Class 1 misdemeanor ~~punishable in the discretion of the court~~ for any person taking wildlife to have in his possession any:

(1) Firearm equipped with a silencer or any device designed to silence, muffle, or minimize the report of the firearm. The firearm is considered equipped with the silencer or device whether it is attached to the firearm or separate but reasonably accessible for attachment during the taking of the wildlife.

(2) Weapon of mass death and destruction as defined in G.S. 14-288.8.

The Wildlife Resources Commission may prohibit individuals training dogs or taking particular species from carrying axes, saws, tree-climbing equipment, and other implements that may facilitate the unlawful taking of wildlife, except tree-climbing equipment may be carried and used by persons lawfully taking raccoons and opossums during open season."

-----SPECIFIC VIOLATIONS FOR POSSESSION AND SALE OF WILDLIFE

Sec. 863. G.S. 113-294 reads as rewritten:

"§ *113-294. Specific violations.*

(a) Any person who unlawfully sells, possesses for sale, or buys any wildlife is guilty of a ~~misdemeanor. Unless~~ Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), imprisonment not to exceed 90 days, or both.~~ question.

(b) Any person who unlawfully sells, possesses for sale, or buys any deer or wild turkey is guilty of a ~~misdemeanor. Unless~~ Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than two hundred fifty dollars ($250.00), in addition to such other punishment the court may impose in its discretion~~ question.

(c) Any person who unlawfully takes, possesses, or transports any wild turkey is guilty of a ~~misdemeanor. Unless~~ Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than two hundred fifty dollars ($250.00) in addition to such other punishment the court may impose in its discretion.~~ question.

(c1) Any person who unlawfully takes, possesses, transports, sells, possesses for sale, or buys any bear or bear part is guilty of a Class 1 ~~misdemeanor. Unless~~ misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than two thousand dollars ($2,000) or imprisonment not to exceed two years, or both, in addition to such other punishment the court may impose in its discretion.~~ question. Each of the acts specified shall constitute a separate offense.

(c2) Any person who unlawfully takes, possesses, transports, sells, possesses for sale, or buys any cougar (Felis concolor) is guilty of a ~~misdemeanor. Unless~~ Class 1 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than ten thousand dollars ($10,000) or imprisonment not to exceed two years, or both,~~

~~in addition to such other punishment as the court may impose in its discretion.~~ question.

(d) Any person who unlawfully takes, possesses, or transports any deer is guilty of a ~~misdemeanor. Unless~~ Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than one hundred dollars ($100.00) in addition to such other punishment the court may impose in its discretion.~~ question.

(e) Any person who unlawfully takes deer between a half hour after sunset and a half hour before sunrise with the aid of an artificial light is guilty of a ~~misdemeanor. Unless~~ Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than two hundred fifty dollars ($250.00) in addition to such other punishment the court may impose in its discretion.~~ question.

(f) Any person who unlawfully takes, possesses, transports, sells, or buys any beaver, or violates any rule of the Wildlife Resources Commission adopted to protect beavers, is guilty of a ~~misdemeanor. Unless~~ Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), imprisonment not to exceed 90 days, or both.~~ question.

(g) Any person who unlawfully takes wild animals or birds from or with the use of a vessel equipped with a motor or with motor attached is guilty of a ~~misdemeanor. Unless~~ Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), imprisonment not to exceed 90 days, or both.~~ question.

(h) Any person who wilfully makes any false or misleading statement in order to secure for himself or another any license, permit, privilege, exemption, or other benefit under this Subchapter to which he or the person in question is not entitled is guilty of a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor.

(i) Any person who violates any provision of G.S. 113-291.6, regulating trapping, is guilty of a ~~misdemeanor. Unless~~ Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), imprisonment not to exceed 90 days, or both.~~ question.

(j) Any person who takes any fox by unlawful trapping or with the aid of any electronic calling device is guilty of a ~~misdemeanor. Unless~~ Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), imprisonment not to exceed 90 days, or both.~~ question.

(k) Any person who has been convicted of one of the fox offenses listed below who subsequently commits the same or another one of the fox offenses listed below is guilty of a ~~misdemeanor. Unless~~ Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted of a second or subsequent fox offense under this subsection is punishable by a fine of not less than two hundred fifty dollars ($250.00) in addition to such other punishment the court may impose in its discretion.~~ question. The fox offenses covered by this subsection are unlawfully selling, possessing for sale, or buying a fox; taking a fox by unlawful trapping; or unlawfully taking a fox with the aid of any electronic calling device.

(l) Any person who unlawfully takes, possesses, transports, sells or buys any bald eagle or golden eagle, alive or dead, or any part, nest or egg of a bald eagle or golden eagle is guilty of a ~~misdemeanor. Unless~~ Class 1 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not more than one thousand dollars ($1,000), or imprisonment of not more than one year, or both.~~ question.

(m) Any person who unlawfully takes any migratory game bird with a rifle; or who unlawfully takes any migratory game bird with the aid of live decoys or any salt, grain, fruit, or other bait; or who unlawfully takes any migratory game bird during the closed season or during prohibited shooting hours; or who unlawfully exceeds the bag limits or possession limits applicable to any migratory game bird is guilty of a Class 3 misdemeanor. ~~In addition to any other penalty prescribed in this Subchapter for the offense in question, any person convicted under this subsection is punishable by a fine of not less than one hundred fifty dollars ($150.00) in addition to any other punishment that the court, in its discretion, may impose.~~"

-----UNLAWFUL HARASSMENT OF PERSONS TAKING WILDLIFE RESOURCES

Sec. 864. G.S. 113-295(a) reads as rewritten:

"(a) It is unlawful for a person to interfere intentionally with the lawful taking of wildlife resources or to drive, harass, or intentionally disturb any wildlife resources for the purpose of disrupting the lawful taking of wildlife resources. It is unlawful to take or abuse property,

equipment, or hunting dogs that are being used for the lawful taking of wildlife resources. This subsection does not apply to a person who incidentally interferes with the taking of wildlife resources while using the land for other lawful activity such as agriculture, mining, or recreation. This subsection also does not apply to activity by a person on land he owns or leases.

Violation of this subsection is a Class 2 misdemeanor ~~punishable~~ for a first conviction ~~by a fine not to exceed two hundred dollars ($200.00), by imprisonment not to exceed three months, or by both~~ and ~~punishable~~ a Class 1 misdemeanor for a second or subsequent conviction ~~by a fine not to exceed five hundred dollars ($500.00), by imprisonment not to exceed one year, or by both~~."

-----USE OF POISONS AND PESTICIDES

Sec. 865. G.S. 113-300.3(c) reads as rewritten:

"(c) Any person taking a wild animal or bird declared a pest with the use of poison or pesticide who neglects to observe applicable restrictions imposed by the Commissioner of Agriculture, the Structural Pest Control Committee, the Pesticide Board, or the Wildlife Resources Commission is guilty of a ~~misdemeanor. Unless~~ Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in ~~question, any person convicted under this subsection is punishable by a fine of not more than one hundred dollars ($100.00), imprisonment not to exceed 30 days, or both.~~ question."

-----FEES OF WILDLIFE PROTECTORS

Sec. 866. G.S. 113-303 reads as rewritten:

"§ *113-303. Arrest, service of process and witness fees of protectors.*

All arrest fees and other fees that may be charged in any bill of costs for service of process by protectors must be paid to the county in which the trial is held. No witness fee may be taxed in any bill of costs by virtue of the appearance of a protector as a witness in a criminal case within his enforcement jurisdiction. Acceptance by any protector of any arrest fee, witness fee, or any other fee to which he is not entitled is a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----ASSENT TO FEDERAL ACTS WITH RESPECT TO GAME AND FISH

Sec. 867. G.S. 113-307.1(a) reads as rewritten:

"(a) The consent of the General Assembly of North Carolina is hereby given to the making by the Congress of the United States, or under its authority, of all such rules and regulations as the federal government shall determine to be needful in respect to game animals, game and nongame birds, and fish on such lands in the western part of North Carolina as shall have been, or may hereafter be, purchased by the United States under the terms of the act of Congress of March

1, 1911, entitled 'An act to enable any state to cooperate with any other state or states, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purposes of conserving the navigability of navigable rivers' (36 Stat. 961), and acts of Congress supplementary thereto and amendatory thereof, and in or on the waters thereon.

Nothing in this subsection shall be construed as conveying the ownership of wildlife from the State of North Carolina or permit the trapping, hunting, or transportation of any game animals, game or nongame birds, or fish by any person, including any agency, department, or instrumentality of the United States or agents thereof, on the lands in North Carolina, as shall have been or may hereafter be purchased by the United States under the terms of any act of Congress, except in accordance with the provisions of this Subchapter and its implementing regulations. Provided, that the provisions of G.S. 113-39 apply with respect to licenses.

Any person, including employees or agents of any department or instrumentality of the United States, violating the provisions of this subsection is guilty of a ~~misdemeanor punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----BOND OF OFFICER OF FISHING AND SEAFOOD AGENCIES

Sec. 868. G.S. 113-315.9(b) reads as rewritten:

"(b) The chairman or executive head of such agency shall cause an annual certified audit to be made of the financial records of the agency. Such audit shall include, among other things, total annual compensation of each employee of the agency and detailed expenses incurred and reimbursed for each employee of the agency. The chairman or executive head of such agency shall cause a copy of the certified audit to be submitted to the Department within 60 days of the end of the agency's fiscal year and shall cause a copy of the audit, or a summary thereof, to be published at least once in one or more newspapers having general circulation in the area where the assessments are made within 60 days of the end of the agency's fiscal year. If the chairman or executive head of the agency shall fail to carry out the provisions of this paragraph, he shall be guilty of a Class 1 misdemeanor."

-----NORTH CAROLINA SEAFOOD INDUSTRIAL PARK AUTHORITY

Sec. 869. G.S. 113-315.34(c) reads as rewritten:

"(c) The Authority shall post copies of rules concerning traffic and parking at appropriate places on property of the Authority. Violation of a rule concerning traffic or parking on property of the Authority is a

~~misdemeanor, punishable by a fine of up to fifty dollars ($50.00), imprisonment for up to 30 days, or both.~~ Class 3 misdemeanor."

-----DRILLING FOR OIL OR GAS TO REGISTER AND FURNISH BOND

Sec. 870. G.S. 113-380 reads as rewritten:

"§ *113-380. Violation a misdemeanor.*

Any person, firm or officer of a corporation violating any of the provisions of G.S. 113-378 or 113-379, shall upon conviction thereof be guilty of a ~~misdemeanor and shall be fined not less than two thousand five hundred dollars ($2,500) nor more than ten thousand dollars ($10,000) and may, in the discretion of the court, be imprisoned for not more than two years.~~ Class 1 misdemeanor."

-----MAKING FALSE ENTRIES/OIL AND GAS DRILLING

Sec. 871. G.S. 113-409 reads as rewritten:

"§ *113-409. Punishment for making false entries, etc.*

Any person who, for the purpose of evading this law, or of evading any rule or order made thereunder, shall intentionally make or cause to be made any false entry or statement of fact in any report required to be made by this law or by any rule or order made hereunder; or who, for such purpose, shall make or cause to be made any false entry in any account, record, or memorandum kept by any person in connection with the provisions of this law or of any rule or order made thereunder; or who, for such purpose, shall omit to make, or cause to be omitted, full, true and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the interest or activities in the petroleum industry of such person as may be required by the Department under authority given in this law or by any rule or order made hereunder; or who, for such purpose shall remove out of the jurisdiction of the State, or who shall mutilate, alter, or by any other means falsify, any book, record, or other paper, pertaining to the transactions regulated by this law, or by any rule or order made hereunder, shall be deemed guilty of a ~~misdemeanor and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than five hundred dollars ($500.00), or imprisonment for a term of not more than six months, or both such fine and imprisonment.~~ Class 2 misdemeanor."

-----VIOLATIONS OF THE NATURAL AND SCENIC RIVERS ACT

Sec. 872. G.S. 113A-42(b) reads as rewritten:

"(b) Penalties. -- Whoever violates, fails, neglects or refuses to obey any provision of this Article or rule or order of the Secretary is guilty of a Class 3 misdemeanor and may be punished only by a fine of not more than fifty dollars ($50.00) for each violation, and each day such person shall fail to comply, where feasible, after having been

officially notified by the Department shall constitute a separate offense subject to the foregoing penalty."

-----VIOLATION OF THE POLLUTION CONTROL ACT

Sec. 873. G.S. 113A-64(b) reads as rewritten:

"(b) Criminal Penalties. -- Any person who knowingly or willfully violates any provision of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor ~~punishable by imprisonment not to exceed 90 days, or by~~ which may include a fine not to exceed five thousand dollars ($5,000)~~, or by both, in the discretion of the court~~."

-----PENALTIES FOR VIOLATION OF CAMA

Sec. 874. G.S. 113A-126(c) reads as rewritten:

"(c) Any person who shall be adjudged to have knowingly or willfully violated any provision of this Article, or any rule or order adopted pursuant to this Article, shall be guilty of a ~~misdemeanor, and for each violation shall be liable for a penalty of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) or shall be imprisoned for not more than 60 days, or both.~~ Class 2 misdemeanor. In addition, if any person continues to violate or further violates, any such provision, rule or order after written notice from the Secretary or (in the case of a permit for a minor development issued by a local government) written notice from the designated local official, the court may determine that each day during which the violation continues or is repeated constitutes a separate violation subject to the foregoing penalties."

-----OUTDOOR ADVERTISING NEAR THE BLUE RIDGE PARKWAY

Sec. 875. G.S. 113A-170 reads as rewritten:

"*§ 113A-170. Violation a misdemeanor; injunctive relief.*

Any person, firm, corporation or association placing or erecting outdoor advertising structure or junkyard along the Blue Ridge Parkway in violation of this Article or a rule adopted under this Article shall be guilty of a Class 1 misdemeanor. In addition thereto, the Department of Environment, Health, and Natural Resources may seek injunctive relief in the superior court of the county in which the said nonconforming outdoor advertising is located and require the outdoor advertising to conform to the provisions of this Article or a rule adopted under this Article, or require the removal of the said nonconforming outdoor advertising."

-----COLLECTION OF THE FOREST PRODUCT ASSESSMENT

Sec. 876. G.S. 113A-195(f) reads as rewritten:

"(f) Any official or employee of the State who discloses information obtained from a production report, except as may be necessary for administration and collection of the assessment, or in the performance of official duties, or in administration or judicial proceedings related to the levy or collection of the assessment, shall be guilty of a Class 3 misdemeanor punishable only by a fine not to exceed fifty dollars ($50.00)."

-----ENFORCEMENT OF THE AQUATIC WEED CONTROL ACT

Sec. 877. G.S. 113A-226(a) reads as rewritten:

"(a) Any person who violates this Article or any rule adopted pursuant to this Article shall be guilty of a Class 2 misdemeanor ~~and, upon conviction, shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or imprisoned for not less than 10 days nor more than 180 days, or both,~~ for each offense."

-----VIOLATIONS OF THE ENERGY CRISIS ADMINISTRATION

Sec. 878. G.S. 113B-24(b) reads as rewritten:

"(b) Any person who violates this Article or any rules, orders or regulations promulgated pursuant to G.S. 113B-22 or knowingly or willfully submits false information in any report required herein shall be guilty of a ~~misdemeanor punishable as provided in G.S. 14-3.~~ Class 1 misdemeanor."

-----MISREPRESENTATION OF ELIGIBILITY FOR TUITION BENEFITS

Sec. 879. G.S. 115B-6 reads as rewritten:

"§ *115B-6. Misrepresentation of eligibility.*

Any applicant who willfully misrepresents his eligibility for the tuition benefits provided under this Chapter, or any person who knowingly aids or abets such applicant in misrepresenting his eligibility for such benefits, shall be deemed guilty of a ~~misdemeanor and, upon conviction, shall be fined not more than fifty dollars ($50.00) or imprisoned for not more than 30 days, or both.~~ Class 3 misdemeanor."

-----EDUCATION MAINTAIN CONFIDENTIALITY OF RECORDS

Sec. 880. G.S. 115C-13 reads as rewritten:

"§ *115C-13. Duty to maintain confidentiality of certain records.*

Except as otherwise provided by federal law, local boards of education and their officers and employees shall provide to the State Board and to the Superintendent all information needed to carry out their duties. It is unlawful for any member of the State Board of Education, the Superintendent of Public Instruction, or any employee or officer of the State Board of Education or the Department of Public Instruction to disclose any of this information that the local board or its officers or employees could not lawfully disclose. This disclosure is

a ~~misdemeanor, punishable by a fine of not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000), imprisonment, or both.~~ Class 1 misdemeanor."

-----JUDICIAL FUNCTIONS OF THE BOARD OF EDUCATION

Sec. 881. G.S. 115C-45(b) reads as rewritten:

"(b) Witness Failing to Appear; misdemeanor. -- Any witness who shall wilfully and without legal excuse fail to appear before a local board of education to testify in any manner under investigation by the board shall be guilty of a ~~misdemeanor, and shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----DUTIES OF SUPERINTENDENT OF PUBLIC INSTRUCTION

Sec. 882. G.S. 115C-276(p) reads as rewritten:

"(p) To Require Teachers and Principals to Make Reports. -- The superintendents may require teachers to make reports to the principals and principals to make reports to the superintendent. Any superintendent who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a Class 1 misdemeanor ~~and upon conviction shall be fined or imprisoned in the discretion of the court~~ and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction."

-----POWERS OF PRINCIPAL

Sec. 883. G.S. 115C-288(b) reads as rewritten:

"(b) To Make Accurate Reports to the Superintendent and to the Local Board. -- The principal shall make all reports to the superintendent. Every principal of a public school shall make such reports as are required by the boards of education, and the superintendent shall not approve the vouchers for the pay of principals until the required monthly and annual reports are made: Provided, that the superintendents may require teachers to make reports to the principals and principals to make reports to the superintendent: Provided further, that any principal or supervisor who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a Class 1 misdemeanor ~~and upon conviction shall be fined or imprisoned in the discretion of the court~~ and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction."

-----DUTIES OF TEACHERS IN PUBLIC SCHOOLS

Sec. 884. G.S. 115c-307(g) reads as rewritten:

"(g) To Make Required Reports. -- Every teacher of a public school shall make such reports as are required by the boards of education, and the superintendent shall not approve the vouchers for the pay of teachers until the required monthly and annual reports are made: Provided, that the superintendents may require teachers to make reports to the principals. Provided further, that any teacher who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of their duties, shall be guilty of a Class 1 misdemeanor ~~and upon conviction shall be fined or imprisoned in the discretion of the court~~ and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction."

-----SCHOOL EMPLOYEE TO MAKE FALSE REPORTS OR RECORDS

Sec. 885. G.S. 115C-317 reads as rewritten:

"§ *115C-317. Penalty for making false reports or records.*

Any school employee of the public schools other than a superintendent, principal, or teacher, who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a Class 1 misdemeanor ~~and upon conviction shall be fined or imprisoned in the discretion of the court~~ and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction."

-----PUBLIC SCHOOL EMPLOYEE HEALTH CERTIFICATE REQUIREMENT

Sec. 886. G.S. 115C-323 reads as rewritten:

"§ *115C-323. Employee health certificate.*

All public school employees upon initial employment, and those who have been separated from public school employment more than one school year, including superintendents, supervisors, principals, teachers, and any other employees in the public schools of the State, shall file in the office of the superintendent, before assuming his duties, a certificate from a physician licensed to practice medicine in the State of North Carolina, certifying that said person does not have tuberculosis in the communicable form, or other communicable disease, or any disease, physical or mental, which would impair the

ability of the said person to perform effectively his duties. A local school board or a superintendent may require any person herein named to take a physical examination when deemed necessary.

Any public school employee who has been absent for more than 40 successive school days because of a communicable disease must, before returning to work, file with the superintendent a physician's certificate certifying that the individual is free from any communicable disease.

The examining physician shall make the aforesaid certificates on an examination form supplied by the Superintendent of Public Instruction. The certificate shall be issued only after a physical examination has been made at the time of the certification, and such examination shall be in accordance with rules and regulations adopted by the Superintendent of Public Instruction, with approval of the Secretary of Environment, Health, and Natural Resources, and such rules and regulations may include the requirement of an X-ray chest examination for all new employees of the public school system.

It shall be the duty of the superintendent of the school in which the person is employed to enforce the provisions of this section.

Any person violating any of the provisions of this section shall be guilty of a ~~misdemeanor and subject to a fine or imprisonment in the discretion of the court.~~ Class 1 misdemeanor."

-----ENFORCEMENT OF COMPULSORY SCHOOL ATTENDANCE

Sec. 887. G.S. 115C-379 reads as rewritten:

"§ *115C-379. Method of enforcement.*

It shall be the duty of the State Board of Education to formulate such rules and regulations as may be necessary for the proper enforcement of the provisions of this Part. The Board shall prescribe what shall constitute unlawful absence, what causes may constitute legitimate excuses for temporary nonattendance due to physical or mental inability to attend, and under what circumstances teachers, principals, or superintendents may excuse pupils for nonattendance due to immediate demands of the farm or the home in certain seasons of the year in the several sections of the State. It shall be the duty of all school officials to carry out such instructions from the State Board of Education, and any school official failing to carry out such instructions shall be guilty of a Class 3 misdemeanor: Provided, that the compulsory attendance law herein prescribed shall not be in force in any local school administrative unit that has a higher compulsory attendance feature than that provided herein."

Sec. 888. G.S. 115C-380 reads as rewritten:

"§ *115C-380. Penalty for violation.*

Any parent, guardian or other person violating the provisions of this Part shall be guilty of a ~~misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days, or both, in the discretion of the court.~~ Class 3 misdemeanor."

§ 115C-383. Attendance of deaf and blind children.

Sec. 889. G.S. 115C-383(b) reads as rewritten:

"(b) Parents, etc., Failing to Enroll Deaf Child in School Guilty of misdemeanor; Provisos. -- The parents, guardians, or custodians of any deaf child between the ages of six and 18 years failing to enroll such deaf child or children in some school for instruction as provided herein, shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned, at the discretion of the court;~~ Class 1 misdemeanor: Provided, that this subsection shall not apply to or be enforced against the parent, guardian, or custodian of any deaf child until such time as the superintendent of any school for the instruction of the deaf shall in his discretion serve written notice on such parent, guardian, or custodian, directing that such child be sent to the institution, advising such parents, guardians, or custodians of the legal requirements of this subsection: Provided, further, that the willful failure of such parent, guardian, or custodian shall constitute a continuing offense and shall not be barred by the statute of limitations."

Sec. 890. G.S. 115C-383(c) reads as rewritten:

"(c) Parents, etc., Failing to Send Blind Child to School Guilty of misdemeanor; Provisos. -- The parents, guardians, or custodians of any blind child between the ages of six and 18 years failing to send such child to some school for the instruction of the blind or public school shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned, at the discretion of the court.~~ Class 1 misdemeanor. This subsection shall not be enforced against the parents, guardians, or custodians of any blind child until such time as the superintendent of some school for the instruction of the blind shall in his discretion serve written notice on such parents, guardians, or custodians directing that such child be sent to the said school or to a public school, advising such parents, guardians, or custodians of the legal requirements of this subsection: Provided, further, that the willful failure of such parents, guardians, or custodians shall constitute a continuing offense and shall not be barred by the statute of limitations. The authorities of the Governor Morehead School shall not be compelled to retain in their custody or under their instruction any incorrigible person of confirmed immoral habits."

-----AUDIT OF EACH SCHOOL ADMINISTRATIVE UNIT

Sec. 891. G.S. 115C-447 reads as rewritten:

"§ *115C-447. Annual independent audit.*

Each local school administrative unit shall have its accounts and the accounts of individual schools therein audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Local Government Commission as qualified to audit local government accounts. The auditor who audits the accounts of a local school administrative unit shall also audit the accounts of its individual schools. The auditor shall be selected by and shall report directly to the board of education. The audit contract shall be in writing, shall include all its terms and conditions, and shall be submitted to the Secretary of the Local Government Commission for his approval as to form, terms and conditions. The terms and conditions of the audit contract shall include the scope of the audit, and the requirement that upon completion of the examination the auditor shall prepare a typewritten or printed report embodying financial statements and his opinion and comments relating thereto. The financial statements accompanying the auditor's report shall be prepared in conformity with generally accepted accounting principles. The auditor shall file a copy of the audit report with the Secretary of the Local Government Commission, the State Board of Education, the board of education and the board of county commissioners, and shall submit all bills or claims for audit fees and costs to the Secretary of the Local Government Commission for his approval. It shall be unlawful for any local school administrative unit to pay or permit the payment of such bills or claims without this approval. Each officer, employee and agent of the local school administrative unit having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information relating to fiscal affairs as he may request. If any member of a board of education or any other public officer, employee or agent shall conceal, falsify, or refuse to deliver or divulge any books, records, or information, with an intent thereby to mislead the auditor or impede or interfere with the audit, he is guilty of a ~~misdemeanor and upon conviction thereof may be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one year, or both, in the discretion of the court.~~ Class 1 misdemeanor.

The State Auditor shall have authority to prescribe the manner in which funds disbursed by administrative units by warrants on the State Treasurer shall be audited."

-----FIRE PREVENTION IN PUBLIC SCHOOL

Sec. 892. G.S. 115C-525(c) reads as rewritten:

"(c) Liability for Failure to Perform Duties Imposed by G.S. 115C-288 and 115C-525(a) or 115C-525(b). -- Any person willfully

failing to perform any of the duties imposed by G.S. 115C-288, 115C-525(a) or 115C-525(b) shall be guilty of a Class 3 misdemeanor and shall only be fined not more than five hundred dollars ($500.00) in the discretion of the court."

-----DUTY TO INSURE PUBLIC SCHOOL PROPERTY

Sec. 893. G.S. 115C-534(c) reads as rewritten:

"(c) Willful failure to comply with the provisions of (a) and (b) above, is declared a ~~misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days.~~ Class 3 misdemeanor. Every 24 hours without such insurance constitutes a separate offense."

-----OPERATING SCHOOL WITHOUT LICENSE OR BOND

Sec. 894. G.S. 115D-96 reads as rewritten:

"§ *115D-96. Operating school without license or bond made misdemeanor.*

Any person, or each member of any association of persons or each officer of any corporation who opens and conducts a proprietary business school, a proprietary technical school, a proprietary trade school, or a correspondence school, without first having obtained the license herein required, and without first having executed the bond required, shall be guilty of a Class 3 misdemeanor ~~and be punishable by a fine of not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00) or 30 days imprisonment, or both, at the discretion of the court~~, and each day said school continues to be open and operated shall constitute a separate offense."

-----CURFEW AT STATE INSTITUTION OF HIGHER EDUCATION

Sec. 895. G.S. 116-213 reads as rewritten:

"§ *116-213. Violation of curfew a misdemeanor; punishment.*

(a) Any person who during such period of curfew utilizes sound-amplifying equipment of any kind or nature upon the premises subject to such curfew in an educational, administrative building, or in any facility owned or controlled by the State or a State institution of higher learning, or upon the campus or grounds of any such institution, without the permission of the administrative head of the institution or his designated agent, shall be guilty of a ~~misdemeanor and punished as hereinafter set forth.~~ Class 2 misdemeanor. For the purposes of this section the term 'sound-amplifying equipment' shall mean any device, machine, or mechanical contrivance which is capable of amplifying sound and capable of delivering an electrical input of one or more watts to the loudspeaker, but this section shall not include radios and televisions.

(b) Any person convicted of violating any provision of G.S. 116-212 or 116-213, or who shall enter a plea of guilty to such

violation or a plea of **nolo contendere**, shall be ~~fined not exceeding five hundred dollars ($500.00) or imprisoned not exceeding six months, or both such fine and imprisonment, in the discretion of the court.~~ guilty of a Class 2 misdemeanor."

-----SCHOOL OF SCIENCE AND MATH; POWERS AND DUTIES

Sec. 896. G.S. 116-235(b)(2) reads as rewritten:

"(2) School Attendance. -- Every parent, guardian, or other person in this State having charge or control of a child who is enrolled in the School and who is less than 16 years of age shall cause such child to attend school continuously for a period equal to the time which the School shall be in session. No person shall encourage, entice, or counsel any child to be unlawfully absent from the School. Any person who aids or abets a student's unlawful absence from the School shall, upon conviction, be guilty of a ~~misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days, or both, in the discretion of the court.~~ Class 3 misdemeanor. The Director of the School shall be responsible for implementing such additional policies concerning compulsory attendance as shall be adopted by the Board of Trustees, including regulations concerning lawful and unlawful absences, permissible excuses for temporary absences, maintenance of attendance records, and attendance counseling."

Sec. 897. G.S. 116-235(c)(8) reads as rewritten:

"(8) Violation of an ordinance adopted under any portion of this subsection is a ~~misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days, in the discretion of the court.~~ Class 3 misdemeanor. An ordinance may provide that certain acts prohibited thereby shall not be enforced by criminal sanctions, and in such cases a person committing any such act shall not be guilty of a misdemeanor."

-----NOTICE BY HOLDERS OF ABANDONED PROPERTY

Sec. 898. G.S. 116B-28(e) reads as rewritten:

"(e) Certification of Mailing; Penalties; Right of Owners. -- Every holder filing a report pursuant to G.S. 116B-29 shall certify to the Treasurer therewith that the notices required by subsections (a) and (b) of this section have been mailed to the last known address of every owner named in the report. Failure or refusal to certify after written demand by the Treasurer or filing false certification shall be a Class 3 misdemeanor, punishable, upon conviction, only by a fine of not less than five hundred dollars ($500.00) nor more than five thousand

dollars ($5,000) as the court, in its discretion, shall determine. Any owner who has suffered loss or damage by reason of the failure of a holder to mail the notice required by this section may recover actual loss or damage from the holder in an appropriate action at law."

-----LUBRICATING OILS

Sec. 899. G.S. 119-4 reads as rewritten:

"§ *119-4. Misdemeanor.*

Any person, firm or corporation violating any of the provisions of this Article shall for each offense be deemed guilty of a ~~misdemeanor and punished by a fine of not less than fifty dollars ($50.00) or more than three hundred dollars ($300.00), or by imprisonment in the county jail for not less than 20 or more than 90 days, or both.~~ Class 2 misdemeanor."

-----LIQUID FUELS; LUBRICATING OILS; GREASES, ETC.

Sec. 900. G.S. 119-13 reads as rewritten:

"§ *119-13. Violation made misdemeanor.*

Every person, firm or firms, partnership or copartnership, corporation or corporations, or any of their agents, servants or employees, violating any of the provisions of this Article shall be guilty of a ~~misdemeanor, and upon conviction, shall be punished by a fine not more than one thousand dollars ($1,000) and by imprisonment not to exceed 12 months, or by either or both in the discretion of the trial judge.~~ Class 1 misdemeanor."

-----REGULATION OF REFINED OR REPROCESSED OIL

Sec. 901. G.S. 119-13.3 reads as rewritten:

"§ *119-13.3. Violation a misdemeanor.*

Any person, firm, or corporation violating any of the provisions of this Article shall for each offense be guilty of a ~~misdemeanor and punished by a fine of not less than one hundred dollars ($100.00) or not more than five hundred dollars ($500.00) or imprisoned for not more than one year, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----APPLICATION FOR LICENSE TO POSSESS KEROSENE

Sec. 902. G.S. 119-16.2 reads as rewritten:

"§ *119-16.2. Application for license.*

Any person, firm or corporation having in his possession kerosene on which the inspection fee has not been paid, and who is not required to be licensed under the provisions of G.S. 105-433, shall, prior to the commencement of doing business, file a duly acknowledged application for a license with the Secretary of Revenue on a form prescribed by the Secretary setting forth the name under which such distributor transacts or intends to transact business within this State, the address of each place of business and a designation of the principal place of business. If such distributor is a firm or

association, the application shall set forth the name and address of each person constituting the firm or association, and if a corporation, the names and addresses of the principal officers and such other information as the Secretary of Revenue may require. Each distributor shall at the same time file a bond in such amount, not exceeding twenty thousand dollars ($20,000) in such form and with such surety or sureties as may be required by the Secretary of Revenue, conditioned upon the rendition of the reports and the payment of the tax hereinafter provided for. Upon approval of the application and bond, the Secretary of Revenue shall issue to the distributor a nonassignable license with a duplicate copy of each place of business of said distributor in this State, a copy of which shall be displayed conspicuously at each such place of business and shall continue in force until surrendered or cancelled. No distributor shall sell, offer for sale, or use any kerosene within this State, until such license has been issued. Any distributor failing to comply with or violating any of the provisions of this section shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars ($100.00), nor more than five thousand dollars ($5,000), or imprisoned for not more than 24 months or both.~~ Class 1 misdemeanor."

-----CERTAIN KEROSENE SALES PROHIBITED

Sec. 903. G.S. 119-16.3 reads as rewritten:

"§ *119-16.3. Certain kerosene sales prohibited.*

It shall be a Class 1 misdemeanor for any distributor to sell kerosene dispensed from a pump located on the same island where there are pumps dispensing gasoline or gasohol. An island is a group of two or more dispensing pumps within 15 feet of each other. This section shall apply only to pumps installed after October 1, 1985."

-----INSPECTORS FOR GASOLINE AND OIL INSPECTION

Sec. 904. G.S. 119-25 reads as rewritten:

"§ *119-25. Inspectors, clerks and assistants.*

The Secretary of Revenue and the Commissioner of Agriculture, respectively, shall appoint and employ such number of inspectors, clerks and assistants as may be necessary to administer and effectively enforce all the provisions of the gasoline and oil inspection law with the administration or enforcement of which each said Commissioner [or Secretary] is charged. All inspectors shall be bonded in the sum of one thousand dollars ($1,000) in the usual manner provided for the bonding of State employees, and the expense of such bonding shall be paid from the Gasoline and Oil Inspection Fund created by this Article. Each inspector, before entering upon his duties, shall take an oath of office before some person authorized to administer oaths. Any inspector who, while in office, shall be interested directly or indirectly

in the manufacture or vending of any illuminating oils or gasoline or other motor fuels shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not less than three hundred dollars ($300.00), or be imprisoned for not less than three months nor more than 12 months, or both in the discretion of the court.~~ Class 1 misdemeanor."

-----DISPLAY OF GRADE; SALE OF GASOLINE NOT MEETING STANDARD

Sec. 905. G.S. 119-27 reads as rewritten:

"*§ 119-27. Display of grade rating on pumps, etc.; sales from pumps or devices not labeled; sale of gasoline not meeting standard indicated on label.*

In the event that the Gasoline and Oil Inspection Board shall adopt standards for grades of gasoline, at all times there shall be firmly attached to or painted on each dispensing pump or other dispensing device used in the retailing of gasoline a label stating that the gasoline contained therein is North Carolina ..... grade. Any person, firm, partnership, or corporation who shall offer or expose for sale gasoline from any dispensing pump or other dispensing device which has not been labeled as required by this section, and/or offer and expose for sale any gasoline which does not meet the required standard for the grade indicated on the label attached to the dispensing pump or other dispensing device, shall be guilty of a Class 2 misdemeanor, ~~and upon conviction shall be fined not more than five hundred dollars ($500.00) and be imprisoned for not more than six months, or either, in the discretion of the court,~~ and the gasoline offered or exposed for sale shall be confiscated.

The gasoline and oil inspectors shall have the authority to immediately seize and seal, to prevent further sales, any dispensing pump or other dispensing device from which gasoline is offered or exposed for sale in violation of or without complying with the provisions of this Article. Provided, however, that this section shall not be construed to permit the destruction of any gasoline which may be blended or rerefined or offered for sale as complying with the legal specifications of a lower grade except under order of the court in which an indictment is brought for violation of the provisions of this Article. Provided, further, that gasoline that has been confiscated and sealed by the gasoline and oil inspectors for violation of the provisions of this Article shall not be offered or exposed for sale until the Director of the Gasoline and Oil Inspection Division has been fully satisfied that the gasoline offered or exposed for sale has been blended or rerefined or properly labeled to meet the requirements of this Article and the owners of said gasoline have been notified in writing of this fact by said Director and, provided, further, that the permitting

of blending, rerefining or properly labeling of confiscated gasoline shall not be construed to in any manner affect any indictment which may be brought for violation of this section."

-----AUTHORITY OF GASOLINE AND OIL INSPECTORS

Sec. 906. G.S. 119-32 reads as rewritten:

"§ *119-32. Powers and authority of inspectors.*

The gasoline and oil inspectors shall have the right of access to the premises and records of any place where petroleum products are stored for the purpose of examination, inspection and/or drawing of samples, and said inspectors are hereby vested with the authority and powers of peace and police officers in the enforcement of motor fuel tax and inspection laws throughout the State, including the authority to arrest, with or without warrants, and take offenders before the several courts of the State for prosecution or other proceedings, and seize or hold or deliver to the sheriff of the proper county all motor or other vehicles and all containers used in transporting motor fuels and/or other liquid petroleum products in violation of or without complying with the provisions of this Article or the rules, regulations or requirements of the Commissioner of Agriculture and/or the Gasoline and Oil Inspection Board and also all motor fuels contained therein. Said inspectors shall have power and authority on the public highways or any other place to stop and detain for inspection and investigation any vehicle containing any motor fuel and/or other liquid petroleum products in excess of 100 gallons or commonly used in the transportation of such fuels and the driver or person in charge thereof, and to require the production by such driver or person in charge of all records, documents and papers required by law to be carried and exhibited by persons in charge of vehicles engaged in transporting such fuels; and whenever said inspectors shall find or see any person engaged in handling, selling, using, or transporting any fuels in violation of any of the provisions of the motor fuel tax or inspection laws of this State, or whenever any such person shall fail or refuse to exhibit to said inspectors, upon demand therefor, any records, documents or papers required by law to be kept subject to inspection or to be exhibited by such person, said person shall be guilty of a Class 1 misdemeanor, and it shall be the duty of said inspectors to immediately arrest such violator and take him before some proper peace officer of the county in which the offense was committed and institute proper prosecution."

-----LIQUID PETROLEUM MEASURING; DEVICES TO FALSIFY MEASURES

Sec. 907. G.S. 119-33 reads as rewritten:

"§ *119-33. Investigation and inspection of measuring equipment; devices calculated to falsify measures.*

The gasoline and oil inspectors shall be required to investigate and inspect the equipment for measuring gasoline, kerosene, lubricating oil, and other liquid petroleum products. Said inspectors shall be under the supervision of the Commissioner of Agriculture, and are hereby vested with the same power and authority now given by law to inspectors of weights and measures, insofar as the same may be necessary to effectuate the provisions of this Article. The rules, regulations, specifications and tolerance limits as promulgated by the National Conference of Weights and Measures, and recommended by the United States Bureau of Standards, shall be observed by said inspectors insofar as they apply to the inspection of equipment used in measuring gasoline, kerosene, lubricating oil and other petroleum products. Inspectors of weights and measures appointed and maintained by the various counties and cities of the State shall have the same power and authority given by this section to inspectors under the supervision of the Commissioner of Agriculture. In all cases where it is found, after inspection, that the measuring equipment used in connection with the distribution of such products is inaccurate, the inspector shall condemn and seize all incorrect devices which in his best judgment are not susceptible of satisfactory repair, but such as are incorrect, and in his best judgment may be repaired, he shall mark or tag as 'condemned for repairs' in a manner prescribed by the Commissioner of Agriculture. After notice in writing the owners or users of such measuring devices which have been condemned for repairs shall have the same repaired and corrected within 10 days, and the owners and/or users thereof shall neither use nor dispose of said measuring devices in any manner, but shall hold the same at the disposal of the gasoline and oil inspector. The inspector shall confiscate and destroy all measuring devices which have been condemned for repairs and have not been repaired as required by this Article. The gasoline and oil inspectors shall officially seal all dispensing pumps or other dispensing devices found to be accurate on inspection, and if, upon inspection at a later date, any pump is found to be inaccurate and the seal broken, the same shall constitute prima facie evidence of intent to defraud by giving inaccurate measure, and the owner and/or user thereof shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000), or be imprisoned for not less than three months, or both, in the discretion of the court.~~ Class 2 misdemeanor. Any person who shall remove or break any seal placed upon said measuring and/or dispensing devices by said inspectors until the provisions of this section have been complied with shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not less than fifty dollars ($50.00) nor more than two~~

~~hundred dollars ($200.00), or be imprisoned for not less than 30 days nor more than 90 days, or both, in the discretion of the court.~~ Class 2 misdemeanor. Any person, firm, or corporation who shall sell or have in his possession for the purpose of selling or using any measuring device to be used or calculated to be used to falsify any measure shall be guilty of a ~~misdemeanor, and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----ADULTERATION OF LIQUID MOTOR FUEL PRODUCTS

Sec. 908. G.S. 119-35 reads as rewritten:

"§ *119-35. Adulteration of products offered for sale.*

It shall be unlawful for any person, firm, or corporation who has purchased gasoline or other liquid motor fuel upon which a road tax has been paid to in anywise adulterate the same by the addition thereto of kerosene or any other liquid substance and sell or offer for sale the same. Any person violating the provisions of this section shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000) or be imprisoned for not more than 12 months, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----GASOLINE AND OIL INSPECTION

Sec. 909. G.S. 119-39 reads as rewritten:

"§ *119-39. Violation a misdemeanor.*

Unless another penalty is provided in this Article, any person violating any of the provisions of this Article or any of the rules and regulations of the Secretary of Revenue or the Commissioner of Agriculture and/or the Gasoline and Oil Inspection Board shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not more than one thousand dollars ($1,000) or be imprisoned for not more than 12 months, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----TRANSPORTING LIQUID MOTOR FUEL SUBJECT TO INSPECTION

Sec. 910. G.S. 119-41(c) reads as rewritten:

"(c) Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined not more than twenty-five dollars ($25.00) for each offense."

-----LIQUEFIED PETROLEUM GASES

Sec. 911. G.S. 119-59 reads as rewritten:

"§ *119-59. Penalty; injunction of violations.*

A dealer violating any of the provisions of this Article, or any of the rules and regulations made and promulgated in accordance with the provisions of this Article, shall be deemed guilty of a ~~misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment.~~ Class 1 misdemeanor.

In addition the Commissioner or his agent may apply to any superior court judge and the court may temporarily restrain or preliminarily or permanently enjoin any violation of this Article or any of the rules or regulations made and promulgated thereunder."

-----DUTIES OF LEGISLATIVE SERVICES COMMISSION

Sec. 912. G.S. 120-32(3) reads as rewritten:

"(3) Acquire and dispose of furnishings, furniture, equipment, and supplies required by the General Assembly, its agencies and commissions and maintain custody of same between sessions. It shall be a Class 1 misdemeanor for any person(s) to remove any state-owned furniture, fixtures, or equipment from the State Legislative Building for any purpose whatsoever, except as approved by the Legislative Services Commission;".

-----RULES ADOPTED BY THE LEGISLATIVE SERVICES COMMISSION

Sec. 913. G.S. 120-32.1(b) reads as rewritten:

"(b) The Legislative Administrative Officer shall have posted the rules adopted by the Legislative Services Commission under the authority of this section in a conspicuous place in the State Legislative Building and the Legislative Office Building. The Legislative Administrative Officer shall have filed a copy of the rules, certified by the chairman of the Legislative Services Commission, in the office of the Secretary of State and in the office of the Clerk of the Superior Court of Wake County. When so posted and filed, these rules shall constitute notice to all persons of the existence and text of the rules. Any person, whether on his own behalf or for another, or acting as an agent or representative of any person, firm, corporation, partnership or association, who knowingly violates any of the rules adopted, posted and filed under the authority of this section is guilty of a ~~misdemeanor and upon conviction shall be punished by a fine or imprisonment in the discretion of the court, or by both such fine and imprisonment,~~ Class 1 misdemeanor. Any person, firm, corporation, partnership or association who combines, confederates, conspires, aids, abets, solicits, urges, instigates, counsels, advises, encourages or procures another or others to knowingly violate any of the rules adopted, posted and filed under the authority of this section is guilty of a ~~misdemeanor and upon conviction shall be punished by a fine or imprisonment in the discretion of the court, or by both such fine and imprisonment,~~ Class 1 misdemeanor."

-----LOBBYING

Sec. 914. G.S. 120-47.9 reads as rewritten:

"§ *120-47.9. Punishment for violation.*

Whoever willfully violates any provision of this Article shall be guilty of a ~~misdemeanor and upon conviction shall be fined not less~~

~~than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or imprisoned not exceeding two years, or both.~~ Class 1 misdemeanor. In addition, no lobbyist who is convicted of a violation of the provisions of this Article shall in any way act as a lobbyist for a period of two years following his conviction."

-----POWERS OF THE DEPARTMENT OF CULTURAL RESOURCES

Sec. 915. G.S. 121-4(9) reads as rewritten:

"(9) To administer and enforce reasonable rules adopted and promulgated by the Historical Commission for the regulation of the use by the public of such historical, architectural, archaeological, or cultural properties under its charge, which regulations, after having been posted in conspicuous places on and adjacent to such State properties and having been filed according to law, shall have the force and effect of law and any violation of such regulations shall constitute a ~~misdemeanor and shall be punishable by a fine of not more than fifty dollars ($50.00) or by imprisonment not to exceed 30 days.~~ Class 3 misdemeanor."

-----PUBLIC RECORDS AND ARCHIVES

Sec. 916. G.S. 121-5(b) reads as rewritten:

"(b) Destruction of Records Regulated. -- No person may destroy, sell, loan, or otherwise dispose of any public record without the consent of the Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, mutilates, or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined at the discretion of the court.

When the custodian of any official State records certifies to the Department of Cultural Resources that such records have no further use or value for official and administrative purposes and when the Department certifies that such records appear to have no further use or value for research or reference, then such records may be destroyed or otherwise disposed of by the agency having custody of them.

When the custodian of any official records of any county, city, municipality, or other subdivision of government certifies to the Department that such records have no further use or value for official business and when the Department certifies that such records appear to have no further use or value for research or reference, then such records may be authorized by the governing body of said county, city, municipality, or other subdivision of government to be destroyed or otherwise disposed of by the agency having custody of them. A record of such certification and authorization shall be entered in the minutes of the governing body granting the authority.

The North Carolina Historical Commission is hereby authorized and empowered to make such orders, rules, and regulations as may be necessary and proper to carry into effect the provisions of this section. When any State, county, municipal, or other governmental records shall have been destroyed or otherwise disposed of in accordance with the procedure authorized in this subsection, any liability that the custodian of such records might incur for such destruction or other disposal shall cease and determine."

-----SALVAGE OF SHIPWRECKS AND OTHER UNDERWATER ARCHAEOLOGY

Sec. 917. G.S. 121-28 reads as rewritten:

"§ *121-28. Violation of Article a misdemeanor.*

Any person violating the provisions of this Article or any rules or regulations established thereunder shall be guilty of a ~~misdemeanor and upon conviction thereof shall be punished as in cases of misdemeanor.~~ Class 1 misdemeanor."

-----MENTAL HEALTH FACILITIES CONFIDENTIALITY

Sec. 918. G.S. 122C-25(b) reads as rewritten:

"(b) Notwithstanding G.S. 8-53, G.S. 8-53.3 or any other law relating to confidentiality of communications involving a patient or client, in the course of an inspection conducted under this section, representatives of the Secretary may review any writing or other record concerning the admission, discharge, medication, treatment, medical condition, or history of any individual who is or has been a patient, resident, or client of a licensable facility and the personnel records of those individuals employed by the licensable facility.

A licensable facility, its employees, and any other individual interviewed in the course of an inspection are immune from liability for damages resulting from disclosure of any information to the Secretary.

Except as required by law, it is unlawful for the Secretary or an employee of the Department to disclose the following information to someone not authorized to receive the information:

(1) Any confidential or privileged information obtained under this section unless the client or his legally responsible person authorizes disclosure in writing; or

(2) The name of anyone who has furnished information concerning a licensable facility without the individual's consent.

Violation of this subsection is a Class 3 misdemeanor punishable only by a fine, not to exceed five hundred dollars ($500.00).

All confidential or privileged information obtained under this section and the names of persons providing this information are exempt from Chapter 132 of the General Statutes."

-----MENTAL HEALTH FACILITY WITHOUT A LICENSE

Sec. 919. G.S. 122C-28 reads as rewritten:

"§ *122C-28. Penalties.*

Operating a licensable facility without a license is a Class 3 misdemeanor and is punishable only by a fine not to exceed fifty dollars ($50.00), for the first offense and a fine, not to exceed five hundred dollars ($500.00), for each subsequent offense. Each day's operation of a licensable facility without a license is a separate offense."

-----CONFIDENTIALITY OF A CLIENT AT MENTAL HEALTH FACILITY

Sec. 920. G.S. 122C-52(e) reads as rewritten:

"(e) Except as required or permitted by law, disclosure of confidential information to someone not authorized to receive the information is a Class 3 misdemeanor and is punishable only by a fine, not to exceed five hundred dollars ($500.00)."

----TREATMENT IN A 24-HOUR MENTAL HEALTH FACILITY

Sec. 921. G.S. 122C-65(b) reads as rewritten:

"(b) Violation of this section is a ~~misdemeanor and is punishable as provided in G.S. 14-3.~~ Class 1 misdemeanor."

-----ABUSE AND EXPLOITATION AT A MENTAL HEALTH FACILITY

Sec. 922. G.S. 122C-66(a) reads as rewritten:

"(a) An employee of or a volunteer at a facility who, other than as a part of generally accepted medical or therapeutic procedure, knowingly causes pain or injury to a client or borrows or takes personal property from a client is guilty of a ~~misdemeanor and is punishable as provided in G.S. 14-3.~~ Class 1 misdemeanor. Any employee or volunteer who uses reasonable force to carry out the provisions of G.S. 122C-60 or to protect himself or others from a violent client does not violate this subsection."

Sec. 923. G.S. 122C-66(b) reads as rewritten:

"(b) An employee of a facility who witnesses or has knowledge of a violation of subsection (a) or of an accidental injury to a client shall report the violation or accidental injury to authorized personnel designated by the facility. No employee making a report may be threatened or harassed by any other employee or volunteer on account of the report. Violation of this subsection is a Class 3 misdemeanor punishable only by a fine, not to exceed five hundred dollars ($500.00)."

-----PERSONNEL RECORDS OF MENTAL HEALTH FACILITIES

Sec. 924. G.S. 122C-158(g) reads as rewritten:

"(g) Permitting access, other than that authorized by this section, to a personnel file of an employee of an area authority is a Class 3

misdemeanor and is punishable only by a fine, not to exceed five hundred dollars ($500.00)."

Sec. 925. G.S. 122C-158(h) reads as rewritten:

"(h) Anyone who, knowing that he is not authorized to do so, examines, removes, or copies information in a personnel file of an employee of an area authority is guilty of a Class 3 misdemeanor and is punishable only by a fine, not to exceed five hundred dollars ($500.00)."

-----CONFIDENTIAL INFORMATION CONCERNING CLIENTS AT MENTAL HEALTH FACILITIES

Sec. 926. G.S. 122C-192(b) reads as rewritten:

"(b) An area authority, State facility, its employees, and any other individual interviewed in the course of an inspection are immune from liability for damages resulting from disclosure of any information to the Secretary.

Except as required by law, it is unlawful for the Secretary or his representative to disclose:

(1) Any confidential or privileged information obtained under this section unless the client or his legally responsible person authorizes disclosure in writing; or

(2) The name of anyone who has furnished information concerning an area authority or State facility without that individual's consent.

Violation of this subsection is a Class 3 misdemeanor punishable only by a fine, not to exceed five hundred dollars ($500.00)."

-----COMMUNITY OF BUTNER; CAMP BUTNER

Sec. 927. G.S. 122C-406 reads as rewritten:

"*§ 122C-406. Violations made misdemeanor.*

A person who violates an ordinance or rule adopted under this Part is guilty of a ~~misdemeanor and is punishable by a fine, not to exceed fifty dollars ($50.00), and imprisonment, not to exceed 30 days.~~ Class 3 misdemeanor."

-----REPORT OF THE CHIEF OFFICER OF EVERY RAILROAD

Sec. 928. G.S. 124-3 reads as rewritten:

"*§ 124-3. Report of railroad, canal, etc.; contents.*

The president or other chief officer of every railroad, canal, or other public work of internal improvement in which the State owns an interest, shall, when required to do so by the Governor, make or cause to be made to the Governor and Council of State a written report of its affairs. This report shall show:

(1) Number of shares owned by the State.

(2) Number of shares owned otherwise.

(3) Face value of such shares.

(4) Market value of each of such shares.

(5) Amount of bonded debt, and for what purpose contracted.
(6) Amount of other debt, and how incurred.
(7) If interest on bonded debt has been punctually paid as agreed; if not, how much in arrears.
(8) Amount of gross receipts for past year, and from what sources derived.
(9) An itemized account of expenditures for past year.
(10) Any lease or sale of said property, or any part thereof, to whom made, for what consideration, and for what length of time.
(11) Suits at law pending against his company concerning its bonded debt, or in which title to all or any part of such road or canal is concerned.
(12) Any sales of stock owned by the State, by whose order made, and disposition of the proceeds.

Any person failing to report as required by this section shall be guilty of a ~~misdemeanor and be fined or imprisoned at the discretion of the court.~~ Class 1 misdemeanor."

-----FAILURE TO RETURN BOOKS TO PUBLIC LIBRARY

Sec. 929. G.S. 125-11 reads as rewritten:

"*§ 125-11. Failure to return books.*

Any person who shall fail to return any book, periodical, or other material withdrawn by him from the Library shall be guilty of a Class 3 misdemeanor ~~punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days~~ if he shall fail to return the borrowed material within 30 days after receiving a notice from the State Librarian that the material is overdue. The provisions of this section shall not be in effect unless a copy of this section is attached to the overdue notice by the State Librarian."

-----POLITICAL ACTIVITY OF STATE EMPLOYEES DEFINED

Sec. 930. G.S. 126-13(b) reads as rewritten:

"(b) No head of any State department, agency, or institution or other State employee exercising supervisory authority shall make, issue, or enforce any rule or policy the effect of which is to interfere with the right of any State employee as an individual to engage in political activity while not on duty or at times during which he is not performing services for which he receives compensation from the State. A State employee who is or may be expected to perform his duties on a twenty-four hour per day basis shall not be prevented from engaging in political activity except during regularly scheduled working hours or at other times when he is actually performing the duties of his office. The willful violation of this subdivision shall be a Class 1 misdemeanor."

-----THREAT TO STATE EMPLOYEE TO OBTAIN POLITICAL CONTRIBUTION

Sec. 931. G.S. 126-14(b) reads as rewritten:

"(b) Any person violating this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

Sec. 932. G.S. 126-14.1(b) reads as rewritten:

"(b) Any person violating this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----COMPENSATION/ASSISTING PERSON OBTAINING STATE EMPLOYMENT

Sec. 933. G.S. 126-18 reads as rewritten:

"§ *126-18. Compensation for assisting person in obtaining State employment barred; exception.*

It shall be unlawful for any person, firm or corporation to collect, accept or receive any compensation, consideration or thing of value for obtaining on behalf of any other person, or aiding or assisting any other person in obtaining employment with the State of North Carolina; provided, however, any person, firm, or corporation that is duly licensed and supervised by the North Carolina Department of Labor as a private employment service acting in the normal course of business, may collect such regular and customary fees for services rendered pursuant to a written contract when such fees are paid by someone other than the State of North Carolina; however, any person, firm, or corporation collecting fees for this service must have been licensed by the North Carolina Department of Labor for a period of not less than one year.

Any person, firm or corporation collecting fees for this service must make a monthly report to the Department of Labor listing the name of the person, firm or corporation collecting fees and the person for whom a job was found, the nature and purpose of the job obtained, and the fee collected by the person, firm or corporation collecting the fee. Violation of this section shall constitute a ~~misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----OFFICIAL NOT TO PERMIT ACCESS TO CONFIDENTIAL FILE

Sec. 934. G.S. 126-27 reads as rewritten:

"§ *126-27. Penalty for permitting access to confidential file by unauthorized person.*

Any public official or employee who shall knowingly and willfully permit any person to have access to or custody or possession of any portion of a personnel file designated as confidential by this Article, unless such person is one specifically authorized by G.S. 126- 24 to have access thereto for inspection and examination, shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars ($500.00)."

-----EXAMINING CONFIDENTIAL STATE PERSONNEL FILE

Sec. 935. G.S. 126-28 reads as rewritten:

"*§ 126-28. Penalty for examining, copying, etc., confidential file without authority.*

Any person, not specifically authorized by G.S. 126-24 to have access to a personnel file designated as confidential by this Article, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars ($500.00)."

-----UNLAWFUL CONVERSION OR WILLFUL DESTRUCTION OF MILITARY PROPERTY

Sec. 936. G.S. 127A-131 reads as rewritten:

"*§ 127A-131. Unlawful conversion or willful destruction of military property.*

(a) If any person shall willfully or wantonly destroy or injure, willfully retain after demand made or otherwise convert to his own use any property of the State or of the United States issued for the purpose of arming or equipping the militia of the State or if any person shall purchase any property of the State or of the United States knowing it to be unlawfully obtained, he shall be guilty of a ~~misdemeanor and shall be punished as provided in G.S. 14-3.~~ Class 1 misdemeanor.

(b) Any person, firm or corporation receiving in pledge or buying from any other person, firm or corporation for the purpose of resale any goods, to include arms, ammunition, explosives, equipment, clothing, supplies and materials, which may reasonably be thought to be the property of the armed forces of the United States and their reserve components or of the militia of the State of North Carolina, shall keep a register and shall enter therein a true and accurate record of each purchase, showing the name, social security number and address of the person from whom purchased, the name and address of the firm or corporation from whom purchased, together with the amount paid for each item or lot of small items, the date of purchase, the serial numbers of all items bearing serial numbers, and any other marks, brands or descriptions which will serve to identify the items

purchased. The register shall be at all times open to the inspection of the public. Any person, firm or corporation failing to comply with this provision shall be guilty of a Class 1 misdemeanor; and any person, firm or corporation making a false entry in such register shall be guilty of a Class 1 misdemeanor."

-----ORGANIZING MILITARY COMPANY WITHOUT AUTHORITY

Sec. 937. G.S. 127A-151 reads as rewritten:

"§ *127A-151. Organizing company without authority.*

If any person shall organize a military company, or drill or parade under arms as a military body, except under the militia laws and regulations of the State, or shall exercise or attempt to exercise the power or authority of a military officer in this State, without holding a commission from the Governor, he shall be guilty of a Class 1 misdemeanor."

-----PLACING NAME ON MUSTER ROLL WRONGFULLY

Sec. 938. G.S. 127A-152 reads as rewritten:

"§ *127A-152. Placing name on muster roll wrongfully.*

If any officer of the militia of the State shall knowingly or willfully place, or cause to be placed, on any muster roll the name of any person not regularly or lawfully enlisted, or the name of any enlisted man who is dead or who has been discharged, transferred, or has lost membership for any cause whatsoever, or who has been convicted of any infamous crime, he shall be guilty of a Class 1 misdemeanor."

-----MILITARY PROPERTY SALES FACILITIES; PERJURY

Sec. 939. G.S. 127B-5 reads as rewritten:

"§ *127B-5. Perjury; punishment.*

Any person who shall willfully commit perjury in any application for a permit pursuant to this Article shall be guilty of a Class 1 misdemeanor."

-----MILITARY PROPERTY SALES FACILITIES; DEALER VIOLATION

Sec. 940. G.S.127B-7 reads as rewritten:

"§ *127B-7. Penalties.*

Any dealer who violates the provisions of this Article shall be guilty of a ~~misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned for not more than six months, or both.~~ Class 2 misdemeanor. In addition, any dealer convicted of violating this Article shall be ineligible for a dealer's permit for a period of three years from the date of conviction. Each violation shall constitute a separate and distinct offense."

-----DISCRIMINATION AGAINST MILITARY PERSONNEL

Sec. 941. G.S. 127B-15 reads as rewritten:

"§ *127B-15. Penalties.*

Any person who violates the provisions of this Article shall be deemed guilty of a ~~misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned for not more than six months, or both.~~ Class 2 misdemeanor. Each violation shall constitute a separate and distinct offense."

-----STATE OFFICIAL RECEIVING COMPENSATION OF SUBORDINATES

Sec. 942. G.S. 128-4 reads as rewritten:

"*§ 128-4. Receiving compensation of subordinates for appointment or retention; removal.*

Any official or employee of this State or any political subdivision thereof, in whose office or under whose supervision are employed one or more subordinate officials or employees who shall, directly or indirectly, receive or demand, for himself or another, any part of the compensation of any such subordinate, as the price of appointment or retention of such subordinate, shall be guilty of a Class 1 misdemeanor: Provided, that this section shall not apply in cases in which an official or employee is given an allowance for the conduct of his office from which he is to compensate himself and his subordinates in such manner as he sees fit. Any person convicted of violating this section, in addition to the criminal penalties, shall be subject to removal from office. The procedure for removal shall be the same as that provided for removal of certain local officials from office by G.S. 128-16 to 128-20, inclusive."

-----DIRECTOR OF THE LOCAL GOVERNMENT COMMISSION TO REPORT VIOLATION OF PUBLIC MONEY TRUST FUND LAWS

Sec. 943. G.S. 128-12 reads as rewritten:

"*§ 128-12. Violations to be reported; misdemeanors.*

It shall be the duty of the director of the Local Government Commission to report to the district attorney of the district any violation of G.S. 128-11 of which he may have knowledge, and any violation of such section shall be unlawful and shall constitute a ~~misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----OPERATION OF LOCAL GOVERNMENT RETIREMENT SYSTEM

Sec. 944. G.S. 128-28(q) reads as rewritten:

"(q) Notwithstanding any law, rule, regulation or policy to the contrary, any board, agency, department, institution or subdivision of the State maintaining lists of names and addresses in the administration of their programs may upon request provide to the Retirement System information limited to social security numbers, current name and addresses of persons identified by the System as

members, beneficiaries, and beneficiaries of members of the System. The System shall use such information for the sole purpose of notifying members, beneficiaries, and beneficiaries of members of their rights to and accruals of benefits in the Retirement System. Any social security number, current name and address so obtained and any information concluded therefrom and the source thereof shall be treated as confidential and shall not be divulged by any employee of the Retirement System or of the Department of State Treasurer except as may be necessary to notify the member, beneficiary, or beneficiary of the member of their rights to and accruals of benefits in the Retirement System. Any person, officer, employee or former employee violating this provision shall be guilty of a ~~misdemeanor and fined not less than two hundred dollars ($200.00) nor more than one thousand ($1,000) and/or be imprisoned;~~ Class 1 misdemeanor; and if such offending person be a public official or employee, he shall be dismissed from office or employment and shall not hold any public office or employment in this State for a period of five years thereafter."

-----PROTECTION AGAINST FRAUD IN COUNTY RETIREMENT SYSTEM

Sec. 945. G.S. 128-32 reads as rewritten:

"§ *128-32. Protection against fraud.*

Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this Retirement System in any attempt to defraud such System as a result of such act shall be guilty of a ~~misdemeanor, and on conviction thereof by any court of competent jurisdiction, shall be punished by a fine not exceeding five hundred dollars ($500.00), or imprisonment not exceeding 12 months, or both, such fine and imprisonment at the discretion of the court.~~ Class 1 misdemeanor. Should any change or error in the records result in any member or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had their records been correct, the Board of Trustees shall correct such error, and as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid."

-----VIOLATION OF PUBLIC HEALTH CHAPTER

Sec. 946. G.S. 130A-25(a) reads as rewritten:

"(a) A person who violates a provision of this Chapter or the rules adopted by the Commission or a local board of health shall be guilty of a Class 1 misdemeanor."

-----VITAL STATISTICS

Sec. 947. G.S. 130A-26 reads as rewritten:

"§ *130A-26. Violations of Article 4.*

A person who commits any of the following acts shall be guilty of a ~~general~~ Class 1 misdemeanor:

(1) Willfully and knowingly makes any false statement in a certificate, record or report required by Article 4 of this Chapter or in an application for a certified copy of a vital record, or who willfully and knowingly supplies false information intending that the information be used in the preparation of any report, record, or certificate, or amendment;

(2) Without lawful authority and with the intent to deceive makes, counterfeits, alters, amends or mutilates a certificate, record or report required by Article 4 of this Chapter or a certified copy of the certificate, record or report;

(3) Willfully and knowingly obtains, possesses, uses, sells or furnishes to another person, for any purpose of deception, a certificate, record or report required by Article 4 of this Chapter or a certified copy of the certificate, record or report, which is counterfeited, altered, amended or mutilated, or which is false in whole or in part or which relates to the birth of another person, whether living or deceased;

(4) A person employed by the Vital Records Branch or designated under Article 4 of this Chapter who willfully and knowingly furnishes or processes a certificate of birth, or certified copy of a certificate of birth, with the knowledge or intention that it be used for the purposes of deception; or

(5) Without lawful authority possesses a certificate, record or report required by Article 4 of this Chapter or a certified copy of the certificate, record or report knowing that it was stolen or otherwise unlawfully obtained;

(6) Remove or permit the removal of a dead body of a human being without authorization provided in Article 4 of this Chapter;

(7) Refuse or fail to furnish correctly any information in the person's possession or shall furnish false information affecting a certificate or record required by Article 4 of this Chapter;

(8) Willfully alter, except as provided by G.S. 130A-123 [G.S. 130A-118], or falsify a certificate or record required by Article 4 of this Chapter; or willfully alter, falsify or change a photocopy, certified copy, extract copy or any

document containing information obtained from an original or copy of a certificate or record required by Article 4 of this Chapter or willfully make, create or use any altered, falsified or changed record, reproduction, copy or document for the purpose of attempting to prove or establish for any purpose whatsoever any matter purported to be shown on it;

(9) With the intention to deceive, willfully use or attempt to use a certificate of birth or certified copy of a record of birth knowing that the certificate or certified copy was issued upon a record which is false in whole or in part or which relates to the birth of another person;

(10) Willfully and knowingly furnish a certificate of birth or certified copy of a record of birth with the intention that it be used by an unauthorized person or for an unauthorized purpose; or

(11) Fail, neglect or refuse to perform any act or duty required by Article 4 of this Chapter or by the instructions of the State Registrar prepared under authority of the Article."

-----CORPORATE POWERS OF SANITARY DISTRICT

Sec. 948. G.S. 130A-55(16)e. reads as rewritten:

"e. Upon the noncompliance by a person of a rule adopted by the sanitary district board, the board shall notify the person of the rule being violated and the facts constituting the violation. The person shall have a reasonable time to comply with the rule as determined by the local health director of the person's residence. Upon failure to comply within the specified time or within a time extended by the sanitary district board, the person shall be guilty of a Class 1 misdemeanor."

-----DISCONNECTION OF SEWER LINES

Sec. 949. G.S. 130A-65 reads as rewritten:

"*§ 130A-65. Liens for sewer service charges in sanitary districts not operating water distribution system; collection of charges; disconnection of sewer lines.*

In sanitary districts which maintain and operate a sewage system but do not maintain and operate a water distribution system, the charges made for sewer service or for use of sewer service facilities shall be a lien upon the property served. If the charges are not paid within 15 days after they become due and payable, suit may be brought in the name of the sanitary district in the county in which the property served is located, or the property, subject to the lien, may be sold by the sanitary district under the same rules, rights of redemption and savings as are prescribed by law for the sale of land for unpaid ad

valorem taxes. A sanitary district is authorized to adopt rules for the use of sewage works and the collection of charges. A sanitary district is authorized in accordance with its rules to enter upon the premises of any person using the sewage works and failing to pay the charges, and to disconnect the sewer line of that person from the district sewer line or disposal plant. A person who connects or reconnects with district sewer line or disposal plant without a permit from the sanitary district shall be guilty of a Class 1 misdemeanor."

-----CONFINEMENT OF ALL BITING DOGS AND CATS

Sec. 950. G.S. 130A-196 reads as rewritten:

"*§ 130A-196. Confinement of all biting dogs and cats; notice to local health director; reports by physicians; certain dogs exempt.*

When a person has been bitten by a dog or cat, the person or parent, guardian or person standing *in loco parentis* of the person, and the person owning the animal or in control or possession of the animal shall notify the local health director immediately and give the name and address of the person bitten and the owner of the animal. All dogs and cats that bite a person shall be immediately confined for 10 days in a place designated by the local health director. However, the local health director may authorize a dog trained and used by a law enforcement agency to be released from confinement to perform official duties upon submission of proof that the dog has been vaccinated for rabies in compliance with this Part. After reviewing the circumstances of the particular case, the local health director may allow the owner to confine the animal on the owner's property. An owner who fails to confine his animal in accordance with the instructions of the local health director shall be guilty of a ~~misdemeanor and shall be punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for six months, or both.~~ Class 2 misdemeanor. If the owner or the person who controls or possesses a dog or cat that has bitten a person refuses to confine the animal as required by this section, the local health director may order seizure of the animal and its confinement for 10 days at the expense of the owner. A physician who attends a person bitten by an animal known to be a potential carrier of rabies shall report within 24 hours to the local health director the name, age and sex of that person."

-----CONFIDENTIAL INFORMATION ON SOLID WASTE MANAGEMENT

Sec. 951. G.S. 130A-304(c) reads as rewritten:

"(c) Except as provided in subsection (b) of this section or as otherwise provided by law, any officer or employee of the State who knowingly discloses information designated as confidential under this section shall be guilty of a Class 1 misdemeanor ~~punishable by a fine of not more than five hundred dollars ($500.00) or imprisonment for~~

~~not more than two years or both~~ and shall be removed from office or discharged from employment."

-----CHARITABLE SOLICITATION LICENSURE ACT

Sec. 952. G.S. 131C-22 reads as rewritten:

"*§ 131C-22. Misdemeanor.*

Any person who willfully violates any provision of this Chapter shall be guilty of a Class 1 misdemeanor."

-----DOMICILIARY HOMES FOR THE AGED AND DISABLED

Sec. 953. G.S. 131D-2(b)(2) reads as rewritten:

"(2) Any individual or corporation that establishes, conducts, manages, or operates a facility subject to licensure under this section without a license is guilty of a Class 3 misdemeanor, and upon conviction shall be punishable only by a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense."

-----CERTIFICATION OF ADULT DAY CARE PROGRAMS

Sec. 954. G.S. 131D-6(c1) reads as rewritten:

"(c1) Any person, firm, agency, or corporation that harms or willfully neglects a person under its care is guilty of a Class 1 misdemeanor."

-----FAMILY FOSTER HOMES OR ADOPTIVE HOMES WITHOUT A LICENSE

Sec. 955. G.S. 131D-10.7 reads as rewritten:

"*§ 131D-10.7. Penalties.*

Any person who establishes or provides foster care for children or who receives and places children in residential child-care facilities, family foster homes or adoptive homes without a license shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be punishable by a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense."

-----LOCAL CONFINEMENT FACILITY FAILING TO FURNISH TO DHR INFORMATION ABOUT ANY LOCAL CONFINEMENT FACILITY

Sec. 956. G.S. 131D-13 reads as rewritten:

"*§ 131D-13. Failure to provide information.*

If the board of commissioners of any county, the chief of police of any municipality, or any officer or employee of any local confinement facility shall fail or refuse to furnish to the Department of Human Resources any information about any local confinement facility which

is required by law to be furnished, or shall fail to allow the inspection of any such facility, such board or individual shall be guilty of a Class 1 misdemeanor."

-----INSPECTIONS UNDER THE HOSPITAL LICENSURE ACT

Sec. 957. G.S. 131E-80(d) reads as rewritten:

"(d) To enable the Department to determine compliance with this Part and the rules promulgated under the authority of this Part and to investigate complaints made against a hospital licensed under this Part, while maintaining the confidentiality of the complainant, the Department shall have the authority to review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients of the hospital licensed under this Part and the personnel records of those individuals employed by the licensed hospital. The examinations of these records is permitted notwithstanding the provisions of G.S. 8-53, 'Communications between physician and patient, or any other provision of law relating to the confidentiality of communications between physician and patient. Proceedings of medical review committees are exempt from the provisions of this section. The hospital, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient, employee or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a hospital without the consent of that person. Any officer, administrator, or employee of the Department who willfully discloses confidential or privileged information without appropriate authorization or court order shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars ($500.00). Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1, 'Public Records' defined."

-----OPERATING HOSPITAL WITHOUT A LICENSE

Sec. 958. G.S. 131E-81 reads as rewritten:

"§ *131E-81. Penalties.*

(a) Any person establishing, conducting, managing, or operating any hospital without a license shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be liable for a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

(b) Except as otherwise provided in this Part, any person who willfully violates any provision of this Part or who willfully fails to perform any act required, or who willfully performs any act prohibited by this Part, shall be guilty of a ~~misdemeanor and upon conviction thereof shall be punished by a fine or by imprisonment for a period not to exceed two years or by both such fine and imprisonment in the discretion of the court.~~ Class 1 misdemeanor. However, any person who willfully violates any rule adopted by the Commission under this Part or who willfully fails to perform any act required by, or who willfully does any act prohibited by, these rules shall be guilty of a ~~misdemeanor and upon conviction shall be punished by a fine not to exceed fifty dollars ($50.00) or by imprisonment for a period not to exceed 30 days.~~ Class 3 misdemeanor."

-----PATIENT REFUSAL TO LEAVE HOSPITAL AFTER DISCHARGE

Sec. 959. G.S. 131E-90 reads as rewritten:

"§ *131E-90. Authority of administrator; refusal to leave after discharge.*

The case of a patient who refuses or fails to leave the hospital upon discharge by the attending physician shall be reviewed by two physicians licensed to practice medicine in this State, one of whom may be the attending physician. If in the opinion of the physicians, the patient should be discharged as cured or as no longer needing treatment or for the reason that treatment cannot benefit the patient's case or for other good and sufficient reasons, the patient's refusal to leave shall constitute a trespass. The patient shall be guilty of a ~~misdemeanor, and upon conviction shall be punished by a fine not to exceed fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----OPERATING A NURSING HOME WITHOUT A LICENSE

Sec. 960. G.S. 131E-109 reads as rewritten:

"§ *131E-109. Penalties.*

(a) Any person establishing, conducting, managing or operating any nursing home without a license shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be liable for a fine of not more than five hundred dollars ($500.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent

offense. Each day of a continuing violation after conviction shall be considered a separate offense.

(b) Any person acting under the authority of the Department who gives advance notice to an operator of a nursing home of the date or time that the nursing home is to be inspected shall be guilty of a ~~misdemeanor, and upon conviction shall be liable for a fine of not more than five hundred dollars ($500.00) or imprisonment for a period not to exceed 30 days, or both.~~ Class 3 misdemeanor. The inspection of a nursing home for initial licensure shall be exempt from the prohibition of prior notice. All subsequent inspections must comply with the provisions of this subsection.

(c) The Secretary or a designee may suspend the admission of any new patients or residents at any nursing home or domiciliary home where the conditions of the nursing home or domiciliary home are detrimental to the health or safety of the patient or resident. This suspension shall remain in effect until the Secretary is satisfied that conditions or circumstances merit the removal of the suspension. This subsection shall be in addition to authority to suspend or revoke the license of the home. Any facility wishing to contest a suspension of admissions shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. The petition for a contested case shall be filed in the Office of Administrative Hearings within 20 days after the Department mails a written notice of suspension of admissions to the facility.

(d) Except as otherwise provided in this Part, any person who violates any provision of this Part or who willfully fails to perform any act required, or who willfully performs any act prohibited by this Part, shall be guilty of a ~~misdemeanor and upon conviction shall be punished by a fine or by imprisonment for a period not to exceed two years or by both such fine and imprisonment in the discretion of the court;~~ Class 1 misdemeanor: Provided, however, that any person who willfully violates any rule adopted by the Commission under this Part or who willfully fails to perform any act required by, or who willfully performs any act prohibited by, these rules shall be guilty of a ~~misdemeanor and upon conviction shall be punished by a fine not to exceed fifty dollars ($50.00) or by imprisonment for a period not to exceed 30 days.~~ Class 3 misdemeanor."

-----HOME CARE AGENCY WITHOUT A LICENSE

Sec. 961. G.S. 131E-141.1 reads as rewritten:

"*§ 131E-141.1. Penalties for violation.*

Any person who knowingly and willfully establishes, conducts, manages or operates any home care agency without a license is guilty of a Class 3 misdemeanor and upon conviction is liable only for a fine of not more than five hundred dollars ($500.00) for the first offense

and not more than five hundred dollars ($500.00) for each subsequent offense."

-----AMBULATORY SURGICAL FACILITY WITHOUT A LICENSE

Sec. 962. G.S. 131E-151 reads as rewritten:

"§ *131E-151. Penalties.*

A person who owns in whole or in part or operates an ambulatory surgical facility without a license is guilty of a Class 3 misdemeanor, and upon conviction will be subject only to a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of continuing violation after conviction is considered a separate offense."

-----CONFIDENTIALITY IN HEALTH CARE FACILITY LICENSING

Sec. 963. G.S. 131E-154.8(b) reads as rewritten:

"(b) The Department shall not disclose:

(1) Any confidential or privileged information obtained under this section unless the patient or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure; or

(2) The name of anyone who has furnished information concerning a nursing pool without that person's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does not occur. Any Department employee who willfully discloses this information without appropriate authorization or court order shall be guilty of a Class 3 misdemeanor and, upon conviction, only fined at the discretion of the court but not in excess of five hundred dollars ($500.00)."

-----REGULATION OF AMBULANCE SERVICES

Sec. 964. G.S. 131E-161 reads as rewritten:

"§ *131E-161. Violation declared misdemeanor.*

It shall be the responsibility of the ambulance provider to ensure that the ambulance operation complies with the provisions of this Article and all rules adopted for this Article. Upon the violation of any part of this Article or any rule adopted under authority of this Article, the Department shall have the power to revoke or suspend the permits of all vehicles owned or operated by the violator. The operation of an ambulance without a valid permit or after a permit has been suspended or revoked or without an emergency medical technician and ambulance attendant aboard as required by G.S. 131E-158, shall constitute a ~~misdemeanor punishable by a fine or imprisonment or both in the discretion of the court.~~ Class 1 misdemeanor."

-----CONFIDENTIALITY WITH REGARD TO HOSPICE LICENSURE

Sec. 965. G.S. 131E-207(b) reads as rewritten:

"(b) The Department shall not disclose:

(1) Any confidential or privileged information obtained under this section unless the patient or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure; or

(2) The name of anyone who has furnished information concerning a hospice without that person's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does not occur. Any Department employee who willfully discloses this information without appropriate authorization or court order shall be guilty of a Class 3 misdemeanor and upon conviction only fined at the discretion of the court but not to exceed five hundred dollars ($500.00)."

-----DESTRUCTION OF PUBLIC RECORDS BY PUBLIC OFFICIALS REGULATED

Sec. 966. G.S. 132-3 reads as rewritten:

"*§ 132-3. Destruction of records regulated.*

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5, without the consent of the Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, defaces, mutilates or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00)."

-----DISPOSITION OF PUBLIC RECORDS AT END OF OFFICIAL'S TERM

Sec. 967. G.S. 132-4 reads as rewritten:

"*§ 132-4. Disposition of records at end of official's term.*

Whoever has the custody of any public records shall, at the expiration of his term of office, deliver to his successor, or, if there be none, to the Department of Cultural Resources, all records, books, writings, letters and documents kept or received by him in the transaction of his official business; and any such person who shall refuse or neglect for the space of 10 days after request made in writing by any citizen of the State to deliver as herein required such public records to the person authorized to receive them shall be guilty of a ~~misdemeanor and upon conviction imprisoned for a term not exceeding two years or fined not exceeding one thousand dollars ($1,000) or both,~~ Class 1 misdemeanor."

-----DEMANDING CUSTODY OF PUBLIC RECORDS

Sec. 968. G.S. 132-5 reads as rewritten:

"*§ 132-5. Demanding custody.*

Whoever is entitled to the custody of public records shall demand them from any person having illegal possession of them, who shall forthwith deliver the same to him. If the person who unlawfully possesses public records shall without just cause refuse or neglect for 10 days after a request made in writing by any citizen of the State to deliver such records to their lawful custodian, he shall be guilty of a ~~misdemeanor and upon conviction imprisoned for a term not exceeding two years or fined not exceeding one thousand dollars ($1,000) or both.~~ Class 1 misdemeanor."

-----VIOLATION OF PUBLIC WORKS CHAPTER

Sec. 969. G.S. 133-4 reads as rewritten:

"§ *133-4. Violation of Chapter made misdemeanor.*

Any person, firm, or corporation violating the provisions of this Chapter shall be guilty of a Class 3 misdemeanor and upon conviction, license to practice his profession in this State shall be withdrawn for a period of one year and he shall only be subject to a fine of not more than five hundred dollars ($500.00)."

-----GIFTS AND FAVORS WITH REGARD TO PUBLIC CONTRACTS REGULATED

Sec. 970. G.S. 133-32(b) reads as rewritten:

"(b) A violation of subsection (a) shall be a Class 1 misdemeanor."

-----AIDING ESCAPES FROM AN INSTITUTION OR YOUTH SERVICES

Sec. 971. G.S. 134A-25 reads as rewritten:

"§ *134A-25. Criminal offense to aid escapes.*

It shall be unlawful for any person to aid, harbor, conceal or assist any child to escape from an institution or youth services program. Any person who renders said assistance to a child shall be guilty of a Class 1 misdemeanor."

-----TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 972. G.S. 135-6(p) reads as rewritten:

"(p) Notwithstanding any law, rule, regulation or policy to the contrary, any board, agency, department, institution or subdivision of the State maintaining lists of names and addresses in the administration of their programs may upon request provide to the Retirement System information limited to social security numbers, current name and addresses of persons identified by the System as members, beneficiaries, and beneficiaries of members of the System. The System shall use such information for the sole purpose of notifying members, beneficiaries, and beneficiaries of members of their rights to and accruals of benefits in the Retirement System. Any social security number, current name and address so obtained and any information concluded therefrom and the source thereof shall be

treated as confidential and shall not be divulged by any employee of the Retirement System or of the Department of State Treasurer except as may be necessary to notify the member, beneficiary, or beneficiary of the member of their rights to and accruals of benefits in the Retirement System. Any person, officer, employee or former employee violating this provision shall be guilty of a ~~misdemeanor and fined not less than two hundred dollars ($200.00) nor more than one thousand ($1,000) and/or be imprisoned;~~ Class 1 misdemeanor; and if such offending person be a public official or employee, he shall be dismissed from office or employment and shall not hold any public office or employment in this State for a period of five years thereafter."

-----FRAUDULENT RECORDS OF RETIREMENT SYSTEM FOR TEACHERS

Sec. 973. G.S. 135-10 reads as rewritten:

"*§ 135-10. Protection against fraud.*

Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this Retirement System in any attempt to defraud such System as a result of such act shall be guilty of a ~~misdemeanor, and on conviction thereof by any court of competent jurisdiction, shall be punished by a fine not exceeding five hundred dollars ($500.00), or imprisonment in the county jail not exceeding 12 months, or both such fine and imprisonment at the discretion of the court.~~ Class 1 misdemeanor. Should any change or error in the records result in any member or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error, and as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid."

-----POWERS OF DEPARTMENT OF TRANSPORTATION

Sec. 974. G.S. 136-18(5) reads as rewritten:

"(5) To make rules, regulations and ordinances for the use of, and to police traffic on, the State highways, and to prevent their abuse by individuals, corporations and public corporations, by trucks, tractors, trailers or other heavy or destructive vehicles or machinery, or by any other means whatsoever, and to provide ample means for the enforcement of same; and the violation of any of the rules, regulations or ordinances so prescribed by the Department of Transportation shall constitute a Class 1 misdemeanor: Provided, no rules, regulations or ordinances shall be made that will conflict with any statute now in force or any ordinance of incorporated cities or towns, except the Department of Transportation may regulate parking

upon any street which forms a link in the State highway system, if said street be maintained with State highway funds."

Sec. 975. G.S. 136-18(9) reads as rewritten:

"(9) To employ appropriate means for properly selecting, planting and protecting trees, shrubs, vines, grasses or legumes in the highway right-of-way in the promotion of erosion control, landscaping and general protection of said highways; to acquire by gift or otherwise land for and to construct, operate and maintain roadside parks, picnic areas, picnic tables, scenic overlooks and other appropriate turnouts for the safety and convenience of highway users; and to cooperate with municipal or county authorities, federal agencies, civic bodies and individuals in the furtherance of those objectives. None of the roadside parks, picnic areas, picnic tables, scenic overlooks or other turnouts, or any part of the highway right-of-way shall be used for commercial purposes except for vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Human Resources, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed. Every other use or attempted use of any of these areas for commercial purposes shall constitute a Class 1 misdemeanor and each day's use shall constitute a separate offense."

Sec. 976. G.S. 136-18(10) reads as rewritten:

"(10) To make proper and reasonable rules, regulations and ordinances for the placing or erection of telephone, telegraph, electric and other lines, above or below ground, signboards, fences, gas, water, sewerage, oil, or other pipelines, and other similar obstructions that may, in the opinion of the Department of Transportation, contribute to the hazard upon any of the said highways or in any way interfere with the same, and to make reasonable rules and regulations for the proper control thereof. And whenever the order of the said Department of Transportation shall require the removal of, or changes in, the location of telephone, telegraph, electric or other lines, signboards, fences, gas, water, sewerage, oil, or other pipelines, or other similar obstructions, the owners thereof shall at their own expense, except as provided in

G.S. 136-19.5(c), move or change the same to conform to the order of said Department of Transportation. Any violation of such rules and regulations or noncompliance with such orders shall constitute a Class 1 misdemeanor."

Sec. 977. G.S. 136-18(22) reads as rewritten:

"(22) No airport or aircraft landing area shall be constructed or altered where such construction or alteration when undertaken or completed may reasonably affect motor vehicle operation and safety on adjoining public roads except in accordance with a written permit from the Department of Transportation or its duly authorized officers. The Department of Transportation is authorized and empowered to regulate airport and aircraft landing area construction and alteration in order to preserve safe clearances between highways and airways and the Department of Transportation is authorized and empowered to make rules, regulations, and ordinances for the preservation of safe clearances between highways and airways. The Department of Transportation shall be responsible for determining safe clearances and shall fix standards for said determination which shall not exceed the standards adopted for similar purposes by the United States Bureau of Public Roads under the Federal Aid Highway Act of 1958. Any person, firm, corporation or airport authority constructing or altering an airport or aircraft landing area without obtaining a written permit as herein provided, or not in compliance with the terms of such permit, or violating the provisions of the rules, regulations or ordinances promulgated under the authority of this section shall be guilty of a ~~misdemeanor punishable in the discretion of the court;~~ Class 1 misdemeanor; provided, that this subdivision shall not apply to publicly owned and operated airports and aircraft landing areas receiving federal funds and subject to regulation by the Federal Aviation Authority."

-----PROVISION AND MARKING OF "PULL-OFF" AREAS

Sec. 978. G.S. 136-18.4 reads as rewritten:

"*§ 136-18.4. Provision and marking of 'pull-off' areas.*

The Department of Transportation is hereby authorized and directed (i) to provide as needed within its right-of-way, adjacent to long sections of two-lane primary highway having a steep uphill grade or numerous curves, areas on which buses, trucks and other slow-moving vehicles can pull over so that faster moving traffic may proceed unimpeded and (ii) to erect appropriate and adequate signs

along such sections of highway and at the pull-off areas. A driver of a truck, bus, or other slow-moving vehicle who fails to use an area so provided and thereby impedes faster moving traffic following his vehicle shall be guilty of a ~~misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days or both.~~ Class 3 misdemeanor."

-----GRADE CROSSINGS AND INADEQUATE UNDERPASSES OR OVERPASSES

Sec. 979. G.S. 136-20(e) reads as rewritten:

"(e) If any railroad company so ordered by the Secretary of Transportation to construct an underpass or overpass or to install safety devices at grade crossings as hereinbefore provided for shall fail or refuse to comply with the order of the Secretary of Transportation requiring such construction or installation, said railroad company shall be guilty of a Class 3 misdemeanor and shall only be fined not less than fifty ($50.00) nor more than one hundred dollars ($100.00) in the discretion of the court for each day such failure or refusal shall continue, each said day to constitute a separate offense."

-----INJURY TO HIGHWAY BARRIERS, WARNING SIGNS

Sec. 980. G.S. 136-26 reads as rewritten:

"§ *136-26. Closing of State highways during construction; injury to barriers, warning signs, etc.*

If it shall appear necessary to the Department of Transportation, its officers, or appropriate employees, to close any road or highway coming under its jurisdiction so as to permit of proper completion of work which is being performed, such Department of Transportation, its officers or employees, may close, or cause to be closed, the whole or any portion of such road or highway deemed necessary to be excluded from public travel. While any such road or highway, or portion thereof, is so closed, or while any such road or highway, or portion thereof, is in process of construction or maintenance, such Department of Transportation, its officers or appropriate employees, or its contractor, under authority from such Department of Transportation, may erect, or cause to be erected, suitable barriers or obstruction thereon; may post, or cause to be posted, conspicuous notices to the effect that the road or highway, or portion thereof, is closed; and may place warning signs, lights and lanterns on such road or highway, or portions thereof. When such road or highway is closed to the public or in process of construction or maintenance, as provided herein, any person who willfully drives into new construction work, breaks down, removes, injures or destroys any such barrier or barriers or obstructions on the road closed or being constructed, or tears down, removes or destroys any such notices, or extinguishes,

removes, injures or destroys any such warning lights or lanterns so erected, posted or placed, shall be guilty of a Class 1 misdemeanor."

-----OTHER THAN OFFICIAL SIGNS PROHIBITED

Sec. 981. G.S. 136-32 reads as rewritten:.

"§ *136-32. Other than official signs prohibited.*

No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light or imitation of any official sign, marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency. No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial advertising: Provided, nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the Department of Transportation or by any local authority referred to in G.S. 136-31. Any person who shall violate any of the provisions of this section shall be guilty of a ~~misdemeanor and punished in the discretion of the court.~~ Class 1 misdemeanor. The Department of Transportation may remove any signs erected without authority."

-----MISLEADING SIGNS PROHIBITED

Sec. 982. G.S. 136-32.1 reads as rewritten:

"§ *136-32.1. Misleading signs prohibited.*

No person shall erect or maintain within 100 feet of any highway right-of-way any warning or direction sign or marker of the same shape, design, color and size of any official highway sign or marker erected under the provisions of G.S. 136-30, or otherwise so similar to an official sign or marker as to appear to be an official highway sign or marker. Any person who violates any of the provisions of this section is guilty of a ~~misdemeanor and shall be punished by a fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----PLACING BLINDING, DECEPTIVE OR DISTRACTING LIGHTS UNLAWFUL

Sec. 983. G.S. 136-32.2(a) reads as rewritten:

"(a) If any person, firm or corporation shall place or cause to be placed any lights, which are flashing, moving, rotating, intermittent or steady spotlights, in such a manner and place and of such intensity:

(1) Which, by the use of flashing or blinding lights, blinds, tends to blind and effectively hampers the vision of the operator of any motor vehicle passing on a public highway; or

(2) Which involves red, green or amber lights or reflectorized material and which resembles traffic signal lights or traffic control signs; or

(3) Which, by the use of lights, reasonably causes the operator of any motor vehicle passing upon a public highway to mistakenly believe that there is approaching or situated in his lane of travel some other motor vehicle or obstacle, device or barricade, which would impede his traveling in such lane;

[he or it] shall be guilty of a ~~misdemeanor and shall upon conviction be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days or both.~~ Class 3 misdemeanor."

-----DAMAGING OR REMOVING SIGNS; REWARDS

Sec. 984. G.S. 136-33(b1) reads as rewritten:

"(b1) Any person violating the provisions of this section shall be guilty of a ~~misdemeanor punishable by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than six months, or both, in the discretion of the court.~~ Class 2 misdemeanor."

-----LOAD LIMITS FOR BRIDGES; PENALTY FOR VIOLATIONS

Sec. 985. G.S. 136-72 reads as rewritten:

"*§ 136-72. Load limits for bridges; penalty for violations.*

The Department of Transportation shall have authority to determine the safe load-carrying capacity for any and all bridges on highways on the State highway system. It shall be unlawful for any person, firm, or corporation to drive, operate or tow on any bridge on the State highway system, any vehicle or combination of vehicles with a gross weight exceeding the safe load-carrying capacity established by the Department of Transportation and posted at each end of the said bridge. Any person, firm, or corporation violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

-----FASTENING VESSELS TO BRIDGES MISDEMEANOR

Sec. 986. G.S. 136-80 reads as rewritten:

"*§ 136-80. Fastening vessels to bridges misdemeanor.*

If any person shall fasten any decked vessel or steamer to any bridge that crosses a navigable stream, he shall be guilty of a Class 1 misdemeanor, and in the case of a bridge that crosses a county line, may be prosecuted in either county."

-----SAFETY MEASURES FOR PUBLIC FERRIES

Sec. 987. G.S. 136-89 reads as rewritten:

"*§ 136-89. Safety measures; guard chains or gates.*

Each and every person, firm or corporation, owning or operating a public ferry upon any sound, bay, river, creek or other stream, shall have securely affixed and attached thereto, at each end of the same, a detachable steel or iron chain, or in lieu thereof a steel or iron gate, and so affixed and arranged that the same shall be closed or fastened across the opposite end from the approach, whenever any motor

vehicle, buggy, cart, wagon, or other conveyance shall be driven upon or shall enter upon the same; and shall be securely fastened or closed at each end of the ferry after such motor vehicle, buggy, cart, wagon, or other conveyance shall have been driven or shall have entered upon the same. And the said gates or chains shall remain closed or fastened, at each end, until the voyage across the stream upon which said ferry is operated shall have been completed. The Department of Transportation, as to ferries under its supervision, and the respective boards of county commissioners, as to other ferries, shall fix and determine a standard weight or size of chain, and a standard size, type, or character of gate, for use by said ferries, leaving optional with the said owner or operator the use of chains or gates.

Any person, firm or corporation violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor."

-----UNLAWFUL USE OF INTERSTATE HIGHWAYS

Sec. 988. G.S. 136-89.58 reads as rewritten:

"*§ 136-89.58. Unlawful use of National System of Interstate and Defense Highways and other controlled-access facilities.*

On those sections of highways which are or become a part of the National System of Interstate and Defense Highways and other controlled-access facilities it shall be unlawful for any person:

(1) To drive a vehicle over, upon or across any curb, central dividing section or other separation or dividing line on said highways.

(2) To make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation, or line on said highways.

(3) To drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section, or line on said highways.

(4) To drive any vehicle into the main travel lanes or lanes of connecting ramps or interchanges except through an opening or connection provided for that purpose by the Department of Transportation.

(5) To stop, park, or leave standing any vehicle, whether attended or unattended, on any part or portion of the right-of-way of said highways, except in the case of an emergency or as directed by a peace officer, or as designated parking areas.

(6) To willfully damage, remove, climb, cross or breach any fence erected within the rights-of-way of said highways.

(7) Notwithstanding any other subdivision of this section, a member of the State Highway Patrol may cross the median

of a divided highway when he has reasonable grounds to believe that a felony is being or has been committed, has personal knowledge that a vehicle is being operated at a speed or in a manner which is likely to endanger persons or property, or the patrol member has reasonable grounds to believe that his presence is immediately required at a location which would necessitate his crossing a median of a divided highway for this purpose.

Any person who violates any of the provisions of this section shall be guilty of a ~~misdemeanor and upon conviction thereof shall be punished by a fine not in excess of one hundred dollars ($100.00) or by imprisonment not in excess of 60 days or by both such fine and imprisonment, in the discretion of the court.~~ Class 2 misdemeanor."

-----OBSTRUCTING HIGHWAYS AND ROADS

Sec. 989. G.S. 136-90 reads as rewritten:

"*§ 136-90. Obstructing highways and roads misdemeanor.*

If any person shall willfully alter, change or obstruct any highway, cartway, mill road or road leading to and from any church or other place of public worship, whether the right-of-way thereto be secured in the manner provided for by law or by purchase, donation or otherwise, such person shall be guilty of a ~~misdemeanor, and fined or imprisoned, or both.~~ Class 1 misdemeanor. If any person shall hinder or in any manner interfere with the making of any road or cartway laid off according to law, he shall be guilty of a ~~misdemeanor, and punished by fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----PLACING GLASS, ETC., OR INJURIOUS OBSTRUCTIONS IN ROAD

Sec. 990. G.S. 136-91(c) reads as rewritten:

"(c) Any person violating the provisions of this section shall be guilty of a ~~misdemeanor punishable by a fine not to exceed two hundred dollars ($200.00) or imprisonment for not more than 30 days.~~ Class 3 misdemeanor."

-----OBSTRUCTING HIGHWAY DRAINS

Sec. 991. G.S. 136-92 reads as rewritten:

"*§ 136-92. Obstructing highway drains misdemeanor.*

Any person who shall obstruct any drains along or leading from any public road in the State shall be guilty of a Class 3 misdemeanor, and punished only by a fine of not less than ten ($10.00) nor more than one hundred dollars ($100.00)."

-----OPENINGS, STRUCTURES, PIPES, TREES, ON HIGHWAYS

Sec. 992. G.S. 136-93 reads as rewritten:

"*§ 136-93. Openings, structures, pipes, trees, and issuance of permits.*

No opening or other interference whatsoever shall be made in any State road or highway other than streets not maintained by the Department of Transportation in cities and towns, nor shall any structure be placed thereon, nor shall any structure which has been placed thereon be changed or removed except in accordance with a written permit from the Department of Transportation or its duly authorized officers, who shall exercise complete and permanent control over such roads and highways. No State road or State highway, other than streets not maintained by the Department of Transportation in cities and towns, shall be dug up for laying or placing pipes, conduits, sewers, wires, railways, or other objects, and no tree or shrub in or on any State road or State highway shall be planted, trimmed, or removed, and no obstruction placed thereon, without a written permit as hereinbefore provided for, and then only in accordance with the regulations of said Department of Transportation or its duly authorized officers or employees; and the work shall be under the supervision and to the satisfaction of the Department of Transportation or its officers or employees, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons, firms, or corporations to whom the permit is given, or by whom the work is done. The Department of Transportation, or its duly authorized officers, may, in its discretion, before granting a permit under the provisions of this section, require the applicant to file a satisfactory bond, payable to the State of North Carolina, in such an amount as may be deemed sufficient by the Department of Transportation or its duly authorized officers, conditioned upon the proper compliance with the requirements of this section by the person, firm, or corporation granted such permit. Any person making any opening in a State road or State highway, or placing any structure thereon, or changing or removing any structure thereon without obtaining a written permit as herein provided, or not in compliance with the terms of such permit, or otherwise violating the provisions of this section, shall be guilty of a Class 1 misdemeanor: Provided, this section shall not apply to railroad crossings. The railroads shall keep up said crossings as now provided by law."

-----GATES PROJECTING OVER RIGHTS-OF-WAY FORBIDDEN

Sec. 993. G.S. 136-94 reads as rewritten:

"§ *136-94. Gates projecting over rights-of-way forbidden.*

It shall be unlawful for any person, firm or corporation to erect, maintain or operate upon his own land, or the land of another, any farm gate or other gate which, when opened, will project over the right-of-way of any State highway.

Any person violating the provisions of this section shall be guilty of a ~~misdemeanor, and, upon conviction, shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days, in the discretion of the court.~~ Class 3 misdemeanor."

-----BILLBOARD OBSTRUCTING VIEW

Sec. 994. G.S. 136-102(b) reads as rewritten:

"(b) Any person, firm, or corporation convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor and punished only by a fine of ten dollars ($10.00), and each day that such violation continues shall be considered a separate offense."

-----TEST DRILLING OR BORING AND RECORDS FILED THEREWITH

Sec. 995. G.S. 136-102.4 reads as rewritten:

"*§ 136-102.4. Penalty for violation of §§ 136-102.2 and 136-102.3.*

Violation of G.S. 136-102.2 and 136-102.3 shall be a ~~misdemeanor, punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----COMPLIANCE OF SUBDIVISION STREETS WITH MINIMUM STANDARDS

Sec. 996. G.S. 136-102.6(k) reads as rewritten:

"(k) A willful violation of any of the provisions of this section shall be a Class 1 misdemeanor."

-----REGULATION OF SCENIC EASEMENTS

Sec. 997. G.S. 136-125 reads as rewritten:

"*§ 136-125. Regulation of scenic easements.*

The Department of Transportation shall have the authority to promulgate rules and regulations governing the use, maintenance and protection of the areas or interests acquired under this Article. Any violation of such rules and regulations shall be a Class 1 misdemeanor."

-----OUTDOOR ADVERTISING ALONG THE INTERSTATE SYSTEM OR PRIMARY SYSTEM

Sec. 998. G.S. 136-135 reads as rewritten:

"*§ 136-135. Enforcement provisions.*

Any person, firm, corporation or association, placing, erecting or maintaining outdoor advertising along the interstate system or primary system in violation of this Article or rules and regulations promulgated by the Department of Transportation shall be guilty of a Class 1 misdemeanor. In addition thereto, the Department of Transportation may seek injunctive relief in the Superior Court of Wake County and require the outdoor advertising to conform to the provisions of this Article or rules and regulations promulgated pursuant hereto, or require the removal of the said illegal outdoor advertising."

-----JUNKYARD NEAR ANY INTERSTATE OR PRIMARY HIGHWAY

Sec. 999. G.S. 136-145 reads as rewritten:

"*§ 136-145. Enforcement provisions.*

Any person, firm, corporation or association that establishes, operates or maintains a junkyard within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway, after the effective date of this Article as determined by G.S. 136-155, that does not come within one or more of the exceptions contained in G.S. 136-144 hereof, shall be guilty of a Class 1 misdemeanor, and each day that the junkyard remains within the prohibited distance shall constitute a separate offense. In addition thereto, said junkyard is declared to be a public nuisance and the Department of Transportation may seek injunctive relief in the superior court of the county in which the offense is committed to abate the said nuisance and to require the removal of all junk from the prohibited area."

-----PETITION ON NEED FOR WATERSHED IMPROVEMENT DISTRICT

Sec. 1000. G.S. 139-18(j) reads as rewritten:

"(j) If there be only one voting place the county election authorities shall immediately after the counting of the ballots form a board of canvassers and, in the presence of such voters as choose to attend, shall canvass and judicially determine the results.

If there be more than one voting place the county election authorities at each voting place shall elect one of their members to attend the meeting of the board of canvassers as a member thereof. When the results of the counting of the ballots shall have been ascertained, such results shall be embodied in a duplicate statement, one copy of which shall be placed in a sealed envelope and delivered to the official elected to attend the meeting of the board of canvassers, and the other copy of which shall be mailed by another county election official to the board of supervisors of the soil and water conservation district. The members of the board of canvassers so appointed shall meet at 11 A.M. on the second day after the election at the county courthouse of the county wherein the largest portion of the proposed district lies, as determined by the said board of supervisors. A majority of the board of canvassers shall constitute a quorum, and such board shall organize by the election of one of its number as chairman and one as secretary. Any member of such board who shall fail to deliver the certified returns from his voting place by 12 noon on the day of such board meeting shall be guilty of a Class 1 misdemeanor, unless for illness or good cause shown for such failure. If any returns have not been received by 12 noon on the day of the meeting, or if any returns are incomplete or defective, it may dispatch

an officer to the residence of such officials for the purpose of securing the proper returns for such voting place. The board of canvassers at its meeting shall in the presence of such voters as choose to attend, open, canvass, and judicially determine the results.

Whether there be one or more than one voting place, the board of canvassers after judicially determining the results shall make abstracts stating the number of legal ballots cast in each voting place and the number of votes cast for and against creation of the watershed improvement district, and shall sign the same in duplicate with its certificate as to the correctness of the abstracts. It shall have power to pass upon judicially all the votes relative to the election and judicially determine and declare the results of the same; to send for papers and persons and examine the latter upon oath; and to pass upon the legality of any disputed ballots transmitted to it by any election official. The board of canvassers shall transmit one copy of the certified abstract of the results to the Soil and Water Conservation Commission, and shall file the other copy with the supervisors of the soil and water conservation district."

-----COLLECTION AND PAYMENT OF WATERSHED ASSESSMENTS

Sec. 1001. G.S. 139-27(e) reads as rewritten:

"(e) All watershed assessments shall be collected by the county tax collector in the same manner as county taxes, except as otherwise herein provided, and such collections shall be enforced in the manner provided by G.S. 105-374 and 105-375; provided, however, that there shall be no right to proceed against personal property in enforcing such collections. The tax collector shall be required on the first day of each month to make settlements with the secretary-treasurer of the Watershed Improvement District of all collections of watershed assessments for the preceding month, and to deposit all moneys so collected in an account maintained in the name of the district at an official depository designated by the district. Such account shall also be used for the deposit of all other funds of the district. Expenditures from such account may be made with the approval of the trustees of the district on requisition from the chairman and the secretary-treasurer of the district. The fee allowed the tax collector for collecting the watershed assessments shall be two percent (2%) of the amount collected, except that, where the tax collector is on a salary basis, such fee shall be paid into the general fund of the county.

If the tax collector shall willfully fail or neglect to comply with any requirement of law concerning collection or deposit of watershed assessments, he shall be guilty of a ~~misdemeanor, and upon conviction shall be subject to fine and imprisonment, in the discretion of the court.~~ Class 1 misdemeanor. He shall likewise be liable to a civil

action for all damages which may accrue either to the trustees of the district or the holders of its bonds, to either or both of whom a right of action is hereby given."

-----PERSON EXPENDING AN APPROPRIATION WRONGFULLY

Sec. 1002. G.S. 143-32(b) reads as rewritten:

"(b) Any member or members of any board of trustees, board of directors, or other controlling body governing any of the institutions of the State, or any officer, employee of, or person holding any position with any of the institutions of the State, or other State agency as herein defined, who willfully acts to divert, use, or expend any funds appropriated for the use of said institution or agency, in a manner designed to circumvent the provisions of this section, including normal reversions of State funds, by failing to properly receive or deposit funds, or by the improper expenditure or transfer of funds for any purpose other than that for which the funds were appropriated and budgeted, shall be guilty of a ~~misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court,~~ Class 1 misdemeanor. All offenses against this section shall be held to have been committed in the County of Wake and shall be tried and disposed of in the General Court of Justice for Wake County. If such offender be not an officer elected by vote of the people, conviction of such offense shall be sufficient cause for removal from office or dismissal from employment by the Governor upon 30 days' notice in writing to such offender."

-----REFUSAL TO COMPLY WITH THE EXECUTIVE BUDGET ACT

Sec. 1003. G.S. 143-34 reads as rewritten:

"*§ 143-34. Penalties and punishment for violations.*

A refusal to perform any of the requirements of this Article, and the refusal to perform any rule or requirement or request of the Director of the Budget made pursuant to, or under authority of, the Executive Budget Act, shall subject the offender to penalty of two hundred and fifty dollars ($250.00), to be recovered in an action instituted either in Wake County Superior Court, or any other county, by the Attorney General for the use of the State of North Carolina, and shall also constitute a ~~misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court,~~ Class 1 misdemeanor. If such offender be not an officer elected by vote of the people, such offense shall be sufficient cause for removal from office or dismissal from employment by the Governor upon 30 days' notice in writing to such offender."

-----USE OF PUBLIC PURCHASE OR CONTRACT FOR PRIVATE BENEFIT

Sec. 1004. G.S. 143-58.1(c) reads as rewritten:

"(c) A violation of this section is a ~~misdemeanor punishable by fine, imprisonment up to two years, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----TRUSTEE, DIRECTOR, OFFICER OR EMPLOYEE DIVERTING FUNDS

Sec. 1005. G.S. 143-115 reads as rewritten:

"*§ 143-115. Trustee, director, officer or employee violating law guilty of misdemeanor.*

Any member or members of any board of trustees, board of directors, or other controlling body governing any of the institutions of the State, or any officer, employee of, or person holding any position with any of the institutions of the State, violating any of the provisions of G.S. 143-114, shall be guilty of a Class 1 misdemeanor, and upon conviction in any court of competent jurisdiction judgment shall be rendered by such court removing such member, officer, employee, or person holding any position from his place, office or ~~position, and shall be fined or imprisoned in the discretion of the court,~~ position."

-----CONDUCT OF PERSONS ON THE GROUNDS OF DHR INSTITUTIONS

Sec. 1006. G.S. 143-116.6(b) reads as rewritten:

"(b) Any person violating such rules shall, upon conviction, be guilty of a ~~misdemeanor and shall be punishable by a fine, not to exceed five hundred dollars ($500.00), or imprisonment for not more than six months, or both.~~ Class 2 misdemeanor."

-----PROCEDURE FOR LETTING OF PUBLIC CONTRACTS

Sec. 1007. G.S. 143-129 reads as rewritten:

"*§ 143-129. Procedure for letting of public contracts; purchases from federal government by State, counties, etc.*

(a) No construction or repair work requiring the estimated expenditure of public money in an amount equal to or more than fifty thousand dollars ($50,000) or purchase of apparatus, supplies, materials, or equipment requiring an estimated expenditure of public money in an amount equal to or more than twenty thousand dollars ($20,000), except in cases of group purchases made by hospitals through a competitive bidding purchasing program or in cases of special emergency involving the health and safety of the people or their property, shall be performed, nor shall any contract be awarded therefor, by any board or governing body of the State, or of any institution of the State government, or of any county, city, town, or other subdivision of the State, unless the provisions of this section are complied with. For purposes of this Article, a competitive bidding group purchasing program is a formally organized program that offers purchasing services at discount prices to two or more hospital facilities. The limitation contained in this paragraph shall not apply to

construction or repair work undertaken during the progress of a construction or repair project initially begun pursuant to this section. Further, the provisions of this section shall not apply to the purchase of gasoline, diesel fuel, alcohol fuel, motor oil or fuel oil. Such purchases shall be subject to G.S. 143-131.

(b) Advertisement of the letting of such contracts shall be as follows:

Where the contract is to be let by a board or governing body of the State government, or of a State institution, as distinguished from a board or governing body of a subdivision of the State, proposals shall be invited by advertisement at least one week before the time specified for the opening of said proposals in a newspaper having general circulation in the State of North Carolina. Provided that the advertisements for bidders required by this section shall be published at such a time that at least seven full days shall lapse between the date of publication of notice and the date of the opening of bids.

Where the contract is to be let by a county, city, town or other subdivision of the State, proposals shall be invited by advertisement at least one week before the time specified for the opening of said proposals in a newspaper having general circulation in such county, city, town or other subdivision.

Such advertisement shall state the time and place where plans and specifications of proposed work or a complete description of the apparatus, supplies, materials or equipment may be had, and the time and place for opening of the proposals, and shall reserve to said board or governing body the right to reject any or all such proposals.

Proposals shall not be rejected for the purpose of evading the provisions of this Article. No board or governing body of the State or subdivision thereof shall assume responsibility for construction or purchase contracts, or guarantee the payments of labor or materials therefor except under provisions of this Article.

All proposals shall be opened in public and shall be recorded on the minutes of the board or governing body and the award shall be made to the lowest responsible bidder or bidders, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract. In the event the lowest responsible bids are in excess of the funds available for the project, the responsible board or governing body is authorized to enter into negotiations with the lowest responsible bidder above mentioned, making reasonable changes in the plans and specifications as may be necessary to bring the contract price within the funds available, and may award a contract to such bidder upon recommendation of the Department of Administration in the case of the State government or of a State institution or agency, or upon recommendation of the responsible

commission, council or board in the case of a subdivision of the State, if such bidder will agree to perform the work at the negotiated price within the funds available therefor. If a contract cannot be let under the above conditions, the board or governing body is authorized to readvertise, as herein provided, after having made such changes in plans and specifications as may be necessary to bring the cost of the project within the funds available therefor. The procedure above specified may be repeated if necessary in order to secure an acceptable contract within the funds available therefor.

No proposal shall be considered or accepted by said board or governing body unless at the time of its filing the same shall be accompanied by a deposit with said board or governing body of cash, or a cashier's check, or a certified check on some bank or trust company insured by the Federal Deposit Insurance Corporation in an amount equal to not less than five percent (5%) of the proposal. In lieu of making the cash deposit as above provided, such bidder may file a bid bond executed by a corporate surety licensed under the laws of North Carolina to execute such bonds, conditioned that the surety will upon demand forthwith make payment to the obligee upon said bond if the bidder fails to execute the contract in accordance with the bid bond. This deposit shall be retained if the successful bidder fails to execute the contract within 10 days after the award or fails to give satisfactory surety as required herein. In the case of proposals in an estimated amount of less than one hundred thousand dollars ($100,000) for the purchase of apparatus, supplies, materials, or equipment, the board or governing body may waive the requirement for a bid bond or other deposit.

Bids shall be sealed if the invitation to bid so specifies and, in any event, the opening of a bid or the disclosure or exhibition of the contents of any bid by anyone without the permission of the bidder prior to the time set for opening in the invitation to bid shall constitute a ~~general~~ Class 1 misdemeanor.

(c) All contracts to which this section applies shall be executed in writing, and the board or governing body shall require the person to whom the award of contract is made to furnish bond as required by Article 3 of Chapter 44A; or require a deposit of money, certified check or government securities for the full amount of said contract to secure the faithful performance of the terms of said contract and the payment of all sums due for labor and materials in a manner consistent with Article 3 of Chapter 44A; and no such contract shall be altered except by written agreement of the contractor, the sureties on his bond, and the board or governing body. Such surety bond or deposit required herein shall be deposited with the board or governing body for which the work is to be performed. When a deposit, other

than a surety bond, is made with the board or governing body, said board or governing body assumes all the liabilities, obligations and duties of a surety as provided in Article 3 of Chapter 44A to the extent of said deposit. In the case of contracts for the purchase of apparatus, supplies, materials, or equipment, the board or governing body may waive the requirement for a surety bond or other deposit.

The owning agency or the Department of Administration, in contracts involving a State agency, and the owning agency or the governing board, in contracts involving a political subdivision of the State, may reject the bonds of any surety company against which there is pending any unsettled claim or complaint made by a State agency or the owning agency or governing board of any political subdivision of the State arising out of any contract under which State funds, in contracts with the State, or funds of political subdivisions of the State, in contracts with such political subdivision, were expended, provided such claim or complaint has been pending more than 180 days.

(d) Nothing in this section shall operate so as to require any public agency to enter into a contract which will prevent the use of unemployment relief labor paid for in whole or in part by appropriations or funds furnished by the State or federal government.

(e) Any board or governing body of the State or any institution of the State government or of any county, city, town, or other subdivision of the State may enter into any contract with (i) the United States of America or any agency thereof, or (ii) any other government unit or agency thereof within the United States, for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment without regard to the foregoing provisions of this section or to the provisions of any other section of this Article.

The Secretary of Administration or the governing board of any county, city, town, or other subdivision of the State may designate any officer or employee of the State, county, city, town or subdivision to enter a bid or bids in its behalf at any sale of apparatus, supplies, materials, equipment or other property owned by (i) the United States of America or any agency thereof, or (ii) any other governmental unit or agency thereof within the United States, and may authorize such officer or employee to make any partial or down payment or payment in full that may be required by regulations of the government or agency disposing of such property.

(f) The provisions of this Article shall not apply to purchases of apparatus, supplies, materials, or equipment by hospitals when performance or price competition for a product are not available; when a needed product is available from only one source of supply; when standardization or compatibility is the overriding consideration; when a particular medical item or prosthetic appliance is needed;

when a particular product is ordered by an attending physician for his patients; when additional products are needed to complete an ongoing job or task; when products are purchased for 'over-the-counter' resale; when a particular product is needed or desired for experimental, developmental, or research work; or when equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital shall keep a record of all purchases made pursuant to this exception. These records are subject to public inspection."

-----WITHDRAWAL OF BID; PUBLIC AGENCIES

Sec. 1008. G.S. 143-129.1 reads as rewritten:

"§ *143-129.1. Withdrawal of bid.*

A public agency may allow a bidder submitting a bid pursuant to North Carolina G.S. 143-129 for construction or repair work to withdraw his bid from consideration after the bid opening without forfeiture of his bid security if the price bid was based upon a mistake, which constituted a substantial error, provided the bid was submitted in good faith, and the bidder submits credible evidence that the mistake was clerical in nature as opposed to a judgment error, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, material or services made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work papers, documents or materials used in the preparation of the bid sought to be withdrawn. A request to withdraw a bid must be made in writing to the public agency which invited the proposals for the work prior to the award of the contract, but not later than 72 hours after the opening of bids.

If a request to withdraw a bid has been made in accordance with the provisions of this section, action on the remaining bids shall be considered, in accordance with North Carolina G.S. 143-129, as though said bid had not been received. Notwithstanding the foregoing, such bid shall be deemed to have been received for the purpose of complying with the requirements of G.S. 143-132. Provided, however, in the event the work is relet for bids, under no circumstances shall the bidder who has filed a request to withdraw be permitted to rebid the work.

If a bidder files a request to withdraw his bid, the agency shall promptly hold a hearing thereon. The agency shall give to the withdrawing bidder reasonable notice of the time and place of any such hearing. The bidder, either in person or through counsel, may appear at the hearing and present any additional facts and arguments

in support of his request to withdraw his bid. The agency shall issue a written ruling allowing or denying the request to withdraw within five days after the hearing. If the agency finds that the price bid was based upon a mistake of the type described in the first paragraph of this section, then the agency shall issue a ruling permitting the bidder to withdraw without forfeiture of the bidder's security. If the agency finds that the price bid was based upon a mistake not of the type described in the first paragraph of this section, then the agency shall issue a ruling denying the request to withdraw and requiring the forfeiture of the bidder's security. A denial by the agency of the request to withdraw a bid shall have the same effect as if an award had been made to the bidder and a refusal by the bidder to accept had been made, or as if there had been a refusal to enter into the contract, and the bidder's bid deposit or bid bond shall be forfeited.

In the event said ruling denies the request to withdraw the bid, the bidder shall have the right, within 20 days after receipt of said ruling, to contest the matter by the filing of a civil action in any court of competent jurisdiction of the State of North Carolina. The procedure shall be the same as in all civil actions except all issues of law and fact and every other issue shall be tried *de novo* by the judge without jury; provided that the matter may be referred in the instances and in the manner provided for by North Carolina G.S. 1A-1, Rule 53, as amended. Notwithstanding the foregoing, if the public agency involved is the Department of Administration, it may follow its normal rules and regulations with respect to contested matters, as opposed to following the administrative procedures set forth herein. If it is finally determined that the bidder did not have the right to withdraw his bid pursuant to the provisions of this section, the bidder's security shall be forfeited. Every bid bond or bid deposit given by a bidder to a public agency pursuant to G.S. 143-129 shall be conclusively presumed to have been given in accordance with this section, whether or not it be so drawn as to conform to this section. This section shall be conclusively presumed to have been written into every bid bond given pursuant to G.S. 143-129.

Neither the agency nor any elected or appointed official, employee, representative or agent of such agency shall incur any liability or surcharge, in the absence of fraud or collusion, by permitting the withdrawal of a bid pursuant to the provisions of this section.

No withdrawal of the bid which would result in the award of the contract on another bid of the same bidder, his partner, or to a corporation or business venture owned by or in which he has an interest shall be permitted. No bidder who is permitted to withdraw a bid shall supply any material or labor to, or perform any subcontract or work agreement for, any person to whom a contract or subcontract

is awarded in the performance of the contract for which the withdrawn bid was submitted, without the prior written approval of the agency. Whoever violates the provisions of the foregoing sentence shall be guilty of a Class 1 misdemeanor."

-----NORTH CAROLINA STATE BUILDING CODE

Sec. 1009. G.S. 143-138(h) reads as rewritten:

"(h) Violations. -- Any person who shall be adjudged to have violated this Article or the North Carolina State Building Code, except for violations of occupancy limits established by either, shall be guilty of a Class 3 misdemeanor and shall upon conviction only be liable to a fine, not to exceed fifty dollars ($50.00), for each offense. Each 30 days that such violation continues shall constitute a separate and distinct offense. Violation of occupancy limits established pursuant to the North Carolina State Building Code shall be a ~~misdemeanor subject to a one hundred dollar ($100.00) fine for a first offense, a two hundred fifty dollar ($250.00) fine for a second offense, and a five hundred dollar ($500.00) fine and up to 30 days imprisonment for a third and any subsequent offenses.~~ Class 3 misdemeanor. Any violation incurred more than one year after another conviction for violation of the occupancy limits shall be treated as a first offense for purposes of establishing and imposing penalties. In case any building or structure is erected, constructed or reconstructed, or its purpose altered, so that it becomes in violation of the North Carolina State Building Code or if the occupancy limits established pursuant to the North Carolina State Building Code are exceeded, either the local enforcement officer or the State Commissioner of Insurance or other State official with responsibility under G.S. 143-139 may, in addition to other remedies, institute any appropriate action or proceedings including the civil remedies set out in G.S. 160A-175 and G.S. 153A-123, (i) to prevent such unlawful erection, construction or reconstruction or alteration of purpose, or overcrowding, (ii) to restrain, correct, or abate such violation, or (iii) to prevent the occupancy or use of said building, structure or land until such violation is corrected."

-----MANUFACTURED HOME BUSINESS WITHOUT LICENSE

Sec. 1010. G.S. 143-143.24 reads as rewritten:

"§ *143-143.24. Engaging in business without license a misdemeanor.*

If any person shall unlawfully act as a manufactured home manufacturer, dealer, salesman, or set-up contractor without first obtaining a license from the North Carolina Manufactured Housing Board, as provided in this Article, he shall be guilty of a Class 1 misdemeanor."

-----UNIFORM STANDARD CODES FOR MANUFACTURED HOMES

Sec. 1011. G.S. 143-151(b) reads as rewritten:

"(b) Any individual, corporation, or a director, officer or agent of a corporation who knowingly and willfully violates this Article or any rules promulgated under this Article in a manner which threatens the health or safety of any purchaser is guilty of a ~~misdemeanor, and upon conviction shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one year, or both.~~ Class 1 misdemeanor."

-----REPRESENTATION AS A QUALIFIED CODE-ENFORCEMENT OFFICIAL

Sec. 1012. G.S. 143-151.18 reads as rewritten:

"*§ 143-151.18. Violations; penalty; injunction.*

On and after July 1, 1979, it shall be unlawful for any person to represent himself as a qualified Code-enforcement official who does not hold a currently valid certificate of qualification issued by the Board. Any person violating any of the provisions of this Article shall be guilty of a ~~misdemeanor and punishable in the discretion of the court,~~ Class 1 misdemeanor. The Board is authorized to apply to any judge of the superior court for an injunction in order to prevent any violation or threatened violation of the provisions of this Article."

-----BUILDING CODE INSULATION AND ENERGY UTILIZATION STANDARDS

Sec. 1013. G.S. 143-151.36 reads as rewritten:

"*§ 143-151.36. Penalty.*

Willful violation of any provision of this Article shall constitute a ~~misdemeanor punishable in the discretion of the court,~~ Class 1 misdemeanor. In addition to or in lieu of such remedy, the city or county with jurisdiction or the State Commissioner of Insurance may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation."

-----INJURY TO WATER SUPPLY OF ANY PUBLIC INSTITUTION

Sec. 1014. G.S. 143-152 reads as rewritten:

"*§ 143-152. Injury to water supply misdemeanor.*

If any person shall in any way intentionally or maliciously damage or obstruct any waterline of any public institution, or in any way contaminate or render the water impure or injurious, he shall be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----KEEPING SWINE NEAR STATE INSTITUTIONS; PENALTY

Sec. 1015. G.S. 143-153 reads as rewritten:

"*§ 143-153. Keeping swine near State institutions; penalty.*

On the petition of a majority of the legal voters living within a radius of one quarter of a mile of the administrative building of any

State educational or charitable institution, it shall be unlawful for any person to keep swine or swine pens within such radius of one quarter of a mile. Any person violating this section shall be guilty of a Class 3 misdemeanor and shall only be subject to a fine of not less than ten ($10.00) nor more than fifty dollars ($50.00)."

-----PROHIBITED DISPOSAL OF MEDICAL WASTE

Sec. 1016. G.S. 143-214.2A(c)(1) reads as rewritten:

"(1) A person who willfully violates this section is guilty of a ~~misdemeanor punishable by imprisonment not to exceed one year, a fine not to exceed ten thousand dollars ($10,000) per day of violation, or both in the discretion of the court.~~ Class 1 misdemeanor.

-----CLEANING AGENTS CONTAINING PHOSPHORUS PROHIBITED

Sec. 1017. G.S. 143-214.4(f) reads as rewritten:

"(f) Any person who manufactures, sells or distributes any cleaning agent in violation of this section shall be guilty of a Class 3 misdemeanor punishable only by a fine not to exceed fifty dollars ($50.00)."

-----WATER AND AIR RESOURCES; ENFORCEMENT

Sec. 1018. G.S. 143-215.6B(f) reads as rewritten:

"(f) Any person who negligently violates any: (i) classification, standard, or limitation established in rules adopted by the Commission pursuant to G.S. 143-214.1, 143-214.2, or 143-215; (ii) term, condition, or requirement of a permit issued pursuant to this Part, including permits issued pursuant to G.S. 143-215.1, pretreatment permits issued by local governments, and laboratory certifications; (iii) term, condition, or requirement of a special order or other appropriate document issued pursuant to G.S. 143-215.2; or (iv) rule of the Commission implementing this Part; and any person who negligently fails to apply for or to secure a permit required by G.S. 143-215.1 shall be guilty of a Class 2 misdemeanor ~~punishable by~~ which may include a fine not to exceed fifteen thousand dollars ($15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars ($200,000) for each period of 30 days during which a violation ~~continues, or by imprisonment not to exceed six months, or by both.~~ continues."

Sec. 1019. G.S. 143-215.6B(i) reads as rewritten:

"(i) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Article or a rule implementing this Article; or who knowingly makes a false statement of a material fact in a rulemaking proceeding or contested case under this Article; or who falsifies, tampers with, or

knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under this Article or rules of the Commission implementing this Article shall be guilty of a Class 2 misdemeanor ~~punishable by~~ which may include a fine not to exceed ten thousand dollars ($10,000)~~, or by imprisonment not to exceed six months, or by both~~."

-----REGULATION OF USE OF WATER RESOURCES

Sec. 1020. G.S. 143-215.17(a) reads as rewritten:

"(a) Criminal Penalties. -- Any person who shall be adjudged to have violated any provision of this Part shall be guilty of a Class 3 misdemeanor and shall only be liable to a penalty of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each violation. In addition, if any person is adjudged to have committed such violation willfully, the court may determine that each day during which such violation continued constitutes a separate violation subject to the foregoing penalty."

-----DAM SAFETY ENFORCEMENT PROCEDURES

Sec. 1021. G.S. 143-215.36(a) reads as rewritten:

"(a) Criminal Penalties. -- Any person who shall be adjudged to have violated this Article shall be guilty of a Class 3 misdemeanor and shall only be liable to a penalty of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each violation. In addition, if any person is adjudged to have committed such violation willfully, the court may determine that each day during which such violation continued constitutes a separate violation subject to the foregoing penalty."

-----FLOODWAY REGULATION

Sec. 1022. G.S. 143-215.58(a) reads as rewritten:

"(a) Any violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part shall constitute a Class 1 misdemeanor."

-----WATER AND AIR QUALITY REPORTING

Sec. 1023. G.S. 143-215.69(a) reads as rewritten:

"(a) Criminal Penalties. -- Any person who violates any provisions of this Part or any rules adopted by the Commission for its implementation shall be guilty of a Class 3 misdemeanor and shall be only liable to a penalty of not less than one hundred dollars ($100.00), nor more than one thousand dollars ($1,000) for each violation and each day such person shall fail to comply after having been officially notified by the Commission shall constitute a separate offense subject to the foregoing penalty."

-----OIL TERMINAL FACILITIES

Sec. 1024. G.S. 143-215.98 reads as rewritten:

"§ *143-215.98. Violations.*

Any person who shall be adjudged to have violated any provision of this Part or any rule of the Secretary adopted hereunder shall be guilty of a ~~misdemeanor, punishable upon conviction by a fine of not exceeding fifty dollars ($50.00) or by imprisonment for not exceeding 30 days or by both such fine and imprisonment.~~ Class 3 misdemeanor."

-----OIL REFINING FACILITY PERMITS

Sec. 1025. G.S. 143-215.102(b) reads as rewritten:

"(b) Criminal Penalties. -- Any person who intentionally or knowingly or willfully violates any provision of this Part, or any rule, regulation or order made pursuant to this Part shall be guilty of a Class 2 misdemeanor ~~punishable by imprisonment not to exceed six months or by~~ which may include a fine to be not more than ten thousand dollars ~~($10,000), or both, in the discretion of the court.~~ ($10,000). No proceeding shall be brought or continued under this subsection for or on account of a violation by any person who has previously been convicted of a federal violation or a local ordinance violation based upon the same set of facts."

-----AIR POLLUTION CONTROL

Sec. 1026. G.S. 143-215.114B(f) reads as rewritten:

"(f) Any person who negligently violates any classification, standard or limitation established pursuant to G.S. 143-215.107; any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.108 or of a special order or other appropriate document issued pursuant to G.S. 143-215.110 or any rule of the Commission implementing any of the said section, shall be guilty of a Class 2 misdemeanor ~~punishable by~~ which may include a fine not to exceed fifteen thousand dollars ($15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars ($200,000) for each period of 30 days during which a violation ~~continues, or by imprisonment not to exceed six months, or by both,~~ continues."

Sec. 1027. G.S. 143-215.114B(i) reads as rewritten:

"(i) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Article or Article 21, or a rule implementing this Article or Article 21; or who knowingly makes a false statement of a material fact in a rulemaking or contested case under this Article or Article 21; or who falsifies, tampers with, or knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under this Article or Article 21 or rules of the Commission implementing this Article or Article 21, shall be guilty of a Class 2 misdemeanor ~~punishable by~~ which may include a fine not to exceed

ten thousand dollars ($10,000)~~, or by imprisonment not to exceed six months, or by both~~."

-----DISRUPTIONS OF OFFICIAL MEETINGS OF PUBLIC BODIES

Sec. 1028. G.S. 143-318.17 reads as rewritten:

"*§ 143-318.17. Disruptions of official meetings.*

A person who willfully interrupts, disturbs, or disrupts an official meeting and who, upon being directed to leave the meeting by the presiding officer, willfully refuses to leave the meeting is guilty of a ~~misdemeanor and upon conviction thereof is punishable by imprisonment for not more than six months, by fine of not more than two hundred fifty dollars ($250.00), or both.~~ Class 2 misdemeanor."

-----POWERS AND DUTIES OF SECRETARY OF ADMINISTRATION

Sec. 1029. G.S. 143-340(18) reads as rewritten:

"(18) To adopt reasonable rules and regulations with respect to the parking of automobiles on all public grounds, subject to the approval of the Governor and Council of State, and to enforce those rules and regulations. Any person who violates a rule or regulation concerning parking on public grounds is guilty of a ~~misdemeanor, and upon conviction is punishable in the discretion of the court.~~ Class 1 misdemeanor. Upon the allocation of parking spaces to any agency pursuant to such rules and regulations, the agency shall adopt written guidelines governing the individual assignment of such parking spaces by the agency. Such guidelines shall give first priority treatment to the physically handicapped and to carpoolers and vanpoolers, however, first priority shall be given to those on call for duty at a time other than normal working hours. A copy of said guidelines shall be made available for inspection by any person upon request."

-----POWERS AND DUTIES OF DEPARTMENT OF ADMINISTRATION

Sec. 1030. G.S. 143-341(8)i.7. reads as rewritten:

"7. To adopt, with the approval of the Governor, reasonable rules for the efficient and economical operation, maintenance, repair, and replacement, as limited in paragraph 4. of this subdivision, of all state-owned motor vehicles under the control of the Department, and to enforce those rules; and to adopt, with the approval of the Governor, reasonable rules regulating the use of private motor vehicles upon State business by the officers

and employees of State agencies, and to enforce those rules. The Department, with the approval of the Governor, may delegate to the respective heads of the agencies to which motor vehicles are permanently assigned by the Department the duty of enforcing the rules adopted by the Department pursuant to this paragraph. Any person who violates a rule adopted by the Department and approved by the Governor is guilty of a ~~misdemeanor, and upon conviction is punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----USE, CARE, PROTECTION, AND MAINTENANCE OF PUBLIC BUILDINGS AND GROUNDS

Sec. 1031. G.S. 143-345.1 reads as rewritten:

"§ *143-345.1. Rules and regulations.*

The Governor, with the approval of the Council of State, shall adopt reasonable rules and regulations governing the use, care, protection, and maintenance of the public buildings and grounds (other than parking). Any person who violates a rule or regulation adopted by the Governor with the approval of the Council of State is guilty of a ~~misdemeanor, and upon conviction is punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----DISORDERLY CONDUCT IN PUBLIC BUILDINGS AND GROUNDS

Sec. 1032. G.S. 143-345.2 reads as rewritten:

"§ *143-345.2. Disorderly conduct in and injury to public buildings and grounds.*

Any person who commits a nuisance or conducts himself in a disorderly manner in or around any public building or grounds, or defaces or injures any public building or grounds, is guilty of a ~~misdemeanor and upon conviction is punishable in the discretion of the court.~~ Class 1 misdemeanor."

-----POWERS OF THE EMC

Sec. 1033. G.S. 143-354(c)(2) reads as rewritten:

"(2) To make such reasonable rules and regulations governing the conservation and use of diverted waters within the emergency area as shall be necessary for the health and safety of the persons who reside within the emergency area; and the violation of such rules and regulations during the period of the emergency shall constitute a ~~misdemeanor punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one year or both within the discretion of the court;~~ Class 1

misdemeanor; provided, however, that before such rules and regulations shall become effective, they shall be published in not less than two consecutive issues of not less than one newspaper generally circulated in the emergency area."

-----POWERS OF THE DEHNR

Sec. 1034. G.S. 143-355(i) reads as rewritten:

"(i) Penalty for Violation. -- Any person violating the provisions of subsections (e), (f) and (g) of G.S. 143-355 shall be guilty of a Class 3 misdemeanor and, upon conviction, shall only be punished by a fine of fifty dollars ($50.00). Each violation shall constitute a separate offense."

-----PENALTIES NORTH CAROLINA PESTICIDE BOARD

Sec. 1035. G.S. 143-469(a) reads as rewritten:

"(a) Any person who shall be adjudged to have violated any provision of this Article, or any regulation of the Board adopted pursuant to this Article, shall be guilty of a ~~misdemeanor, and for each violation shall be liable for a penalty of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) or shall be imprisoned for not more than 60 days, or both.~~ Class 2 misdemeanor. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Board, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

-----VOCATIONAL REHABILITATIONAL SERVICES

Sec. 1036. G.S. 143-547(f) reads as rewritten:

"(f) It is a Class 1 misdemeanor for a person seeking or having obtained assistance under this Part for himself or another to willfully fail to disclose to the Division of Vocational Rehabilitation Services or its attorney the identity of any person or organization against whom the recipient of assistance has a right of recovery, contractual or otherwise."

-----BATTLESHIP COMMISSION -- EMPLOYEES NOT TO HAVE INTEREST

Sec. 1037. G.S. 143B-74.3 reads as rewritten:

"§ *143B-74.3. U.S.S. North Carolina Battleship Commission -- employees not to have interest.*

It shall be unlawful for any member of the Commission to charge, receive, or obtain, directly or indirectly, any fee, commission, retainer or brokerage other than established salaries to be fixed by the Commission, and no member of the Commission shall have any interest in any land, materials, commissions or contracts sold to or made with the Commission, or with any member thereof. Violation of

any provisions of this section shall be a ~~misdemeanor and upon conviction shall be punishable by removal from membership or employment and by a fine of not less than one hundred dollars ($100.00) or by imprisonment not to exceed six months or both, in the discretion of the court.~~ Class 2 misdemeanor."

-----STATE/REGIONAL LONG-TERM CARE OMBUDSMAN

Sec. 1038. G.S. 143B-181.20(a) reads as rewritten:

"(a) The State and Regional Ombudsman may enter any long-term care facility and may have reasonable access to any resident in the reasonable pursuit of his function. The Ombudsman may communicate privately and confidentially with residents of the facility individually or in groups. The Ombudsman shall have access to the patient records of any resident, under procedures established by the State Ombudsman pursuant to G.S.143B-181.18(6), provided that the medical and personal financial records pertaining to an individual resident may be inspected only with the permission of the resident or his legally appointed guardian, if any. Entry shall be conducted in a manner that will not significantly disrupt the provision of nursing or other care to residents and if the long-term care facility requires registration of all visitors entering the facility, then the State or Regional Ombudsman must also register. Any State or Regional Ombudsman who discloses any information obtained from the patient's medical or personal financial records without a court order or without authorization in writing from the resident, or his legal representative, is guilty of a ~~general~~ Class 1 misdemeanor."

-----STATE/REGIONAL LONG-TERM CARE OMBUDSMAN; INTERFERENCE

Sec. 1039. G.S. 143B-181.25 reads as rewritten:

"*§ 143B-181.25. Office of State/Regional Long-Term Care Ombudsman; penalty for willful interference.*

Willful or unnecessary obstruction with the State or Regional Long-Term Care Ombudsman in the performance of his official duties is a ~~general~~ Class 1 misdemeanor."

-----AUTHORITY OF THE ENERGY DIVISION TO COLLECT DATA

Sec. 1040. G.S. 143B-450.1(d) reads as rewritten:

"(d) Any person or corporation who willfully refuses to provide the petroleum supply data in accordance with the conditions described herein, or who knowingly or willfully submits false information in any reports required herein or refuses to file any such reports shall be guilty of a ~~misdemeanor punishable as provided in G.S. 14-3.~~ Class 1 misdemeanor."

-----NORTH CAROLINA STATE PORTS AUTHORITY

Sec. 1041. G.S. 143B-461(c) reads as rewritten:

"(c) The North Carolina State Ports Authority is hereby authorized to make such reasonable rules, regulations, and adopt such additional ordinances with respect to the use of the streets, alleys, driveways and to the establishment of parking areas on the properties of the Authority and relating to the safety and welfare of persons using the property of the Authority. All rules, regulations and ordinances adopted pursuant to the authority of this subsection shall be recorded in the proceedings of the Authority and printed and copy of such rules, regulations and ordinances shall be filed in the office of the Attorney General of North Carolina and the Authority shall cause to be posted, at appropriate places on the properties of the Authority, notice to the public of applicable rules, regulations and ordinances as may be adopted under the authority of this subsection. Any person violating any such rules, regulations or ordinances shall, upon conviction thereof, be guilty of a ~~misdemeanor and shall be punished by a fine of not exceeding fifty dollars ($50.00) or imprisonment not to exceed 30 days.~~ Class 3 misdemeanor."

-----BURIAL ASSOCIATION REQUIREMENTS AS TO RULES AND BYLAWS.

Sec. 1042. Article 4 of G.S. 143B-472.3 reads as rewritten:

"Article 4. The annual meeting of the association shall be held at ..... (here insert the place, date and hour); each member shall have one vote at said annual meeting and 15 members of the association shall constitute a quorum. There shall be elected at the annual meeting of said association a board of directors of seven members, each of whom shall serve for a period of from one to five years as the membership may determine and until his or her successor shall have been elected and qualified. Any member of the board of directors who shall fail to maintain his or her membership, as provided in the rules and bylaws of said association, shall cease to be a member of the board of directors and a director shall be appointed by the president of said association for the unexpired term of such disqualified member. There shall be at least an annual meeting of the board of directors, and such meeting shall be held immediately following the annual meeting of the membership of the association. The directors of the association may, by a majority vote, hold other meetings of which notice shall be given to each member by mailing such notice five days before the meeting to be held. At the annual meetings of the directors of the association, the board of directors shall elect a president, a vice-president, and a secretary-treasurer. The president and vice-president shall be elected from among the directors, but the secretary-treasurer may be selected from the director membership or from the membership of the association, it being provided that it is not necessary that the secretary-treasurer shall be a member of the board

of directors. Among other duties that the secretary-treasurer may perform, he shall be chargeable with keeping an accurate and faithful roll of the membership of this association at all times and he shall be chargeable with the duty of faithfully preserving and faithfully applying all moneys coming into his hands by virtue of his said office. The president, vice-president and secretary-treasurer shall constitute a board of control who shall direct the affairs of the association in accordance with these Articles and bylaws of the association, and subject to such modification as may be made or authorized by an act of the General Assembly. The secretary-treasurer shall keep a record of all assessments made, dues collected and benefits paid. The books of the association, together with all records and bank accounts shall be at all times open to the inspection of the Burial Association Administrator or his duly constituted auditors or representatives. It shall be the duty of the secretary or secretary-treasurer of each association to keep the books of the association posted up-to-date so that the financial standing of the association may be readily ascertained by the Burial Association Administrator or any auditor or representative employed by him. Upon the failure of any secretary or secretary-treasurer to comply with this provision, it shall be the duty of the Burial Association Administrator to take charge of the books of the association and do whatever work is necessary to bring the books up-to-date. The actual costs of said work may be charged the burial association and shall be paid from the thirty percent (30%) allowed by law for the operation of the burial association.

Whenever in the opinion of the Burial Association Administrator, it is necessary to audit the books of any burial association more than once in any calendar year, the Burial Association Commission shall have authority to assess such burial association the actual cost of any audit in excess of one per calendar year, provided that no more than one audit may be deemed necessary unless a discrepancy exists at the last regular audit. Such cost shall be paid from the thirty percent (30%) allowed by law for the operation of the burial association.

Every burial association shall file with the North Carolina Mutual Burial Association Commission an annual report of its financial condition on a form furnished to it by the North Carolina Burial Association Administrator. Such report shall be filed on or before February 15 of each calendar year and shall cover the complete financial condition of the burial association for the immediate preceding calendar year. The Burial Association Commission shall levy and collect a penalty of twenty-five dollars ($25.00) for each day after February 15 that the report called for herein is not filed. The Commission may, in its discretion, grant any reasonable extension of the above filing date without the penalty provided in this section. Such

penalty shall be paid from the thirty percent (30%) allowed by law for the operation of the burial association. Any secretary or secretary-treasurer who fails to file such financial report on or before February 15 of each calendar year or on or before the last day of any period of extension for the filing of such report granted by the Commission to the burial association of such secretary or secretary-treasurer shall be guilty of a ~~misdemeanor and shall be punished by a fine of not in excess of one hundred dollars ($100.00) and imprisoned for not in excess of 30 days, or both fined and imprisoned.~~ Class 3 misdemeanor. Each day after February 15, or the last day of any period of extension for the filing of the report granted by the Commission to the burial association of such secretary or secretary-treasurer, that said report is not filed by the secretary or secretary-treasurer of a burial association, shall constitute a separate offense."

-----MUTUAL BURIAL ASSOCIATION COMMISSION

Sec. 1043. G.S. 143B-472.6 reads as rewritten:

"§ *143B-472.6. Unlawful to operate without written authority of Commission.*

It shall be unlawful for any person, firm or corporation, association or organization to organize, operate, or in any way solicit members for a burial association, or for participation in any plan, scheme, or device similar to burial associations, without the written authority of the North Carolina Mutual Burial Association Commission, and any person, firm or corporation violating the provisions of this section shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined not less than two hundred fifty dollars ($250.00) or imprisoned not less than 12 months, or both, in the discretion of the court;~~ Class 1 misdemeanor; provided, however, the Burial Association Commission shall not withhold authority for the organization or operation of a bona fide burial association, meeting the requirements of this Article, unless it shall be found and established to the satisfaction of the Burial Association Commission that the person or persons applying for authority to organize and operate such bona fide burial association is disqualified or does not meet the requirements of this Article."

-----COMPLIANCE WITH BYLAWS OF THE NORTH CAROLINA MUTUAL BURIAL ASSOCIATION

Sec. 1044. G.S. 143B-472.10 reads as rewritten:

"§ *143B-472.10. Penalty for failure to operate in substantial compliance with bylaws.*

If any burial association or other organization or official thereof, or any person operates or allows to be operated a burial association on any plan, scheme or bylaws not in substantial compliance with the bylaws set forth in G.S. 143B-472.3, the Burial Association

Administrator may revoke any authority or license granted for the operation of such burial association, and any person, firm or corporation or association convicted of the violation of this section shall be guilty of a ~~misdemeanor and shall be fined not less than two hundred fifty dollars ($250.00) or imprisoned not less than one year in jail, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----PENALTY FOR BURIAL ASSOCIATION OFFICIAL TO WRONGFULLY INDUCE PERSON TO CHANGE MEMBERSHIP

Sec. 1045. G.S. 143B-472.11 reads as rewritten:

"*§ 143B-472.11. Penalty for wrongfully inducing person to change membership.*

Any burial association official, agent or representative thereof or any person who shall use fraud or make any promise not part of the printed bylaws, or who shall offer any rebate, gratuity or refund to cause a member of one association to change membership to another association, shall be guilty of a ~~misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars ($250.00) or imprisoned not less than one year in jail, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----PENALTY FOR PERSON OR BURIAL ASSOCIATION OFFICIAL TO MAKE FALSE AND FRAUDULENT ENTRIES

Sec. 1046. G.S. 143B-472.12 reads as rewritten:

"*§ 143B-472.12. Penalty for making false and fraudulent entries.*

Any person or burial association official who makes or allows to be made any false entry on the books of the association with intent to deceive or defraud any member thereof, or with intent to conceal from the Burial Association Administrator or his deputy or agent, or any auditor authorized to examine the books of such association, under the supervision of the Burial Association Administrator, shall be guilty of a ~~misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars ($250.00), or imprisoned in the common jail for not less than 12 months, or both, in the discretion of the court.~~ Class 1 misdemeanor."

----BURIAL ASSOCIATION OFFICIALS ACCEPTING APPLICATIONS WITHOUT COLLECTING FEE AND FIRST ASSESSMENT

Sec. 1047. G.S. 143B-472.13 reads as rewritten:

"*§ 143B-472.13. Accepting applications without collecting fee and first assessment.*

Any burial association official, agent or representative, or any other person who shall accept any application for membership in any association without collecting the membership fee and first assessment due thereon from any such person making such an application for membership, shall be guilty of a ~~misdemeanor and upon conviction~~

~~shall be fined not less than two hundred fifty dollars ($250.00), or imprisoned not less than 12 months, or both, in the discretion of the court.~~ Class 1 misdemeanor.

Any burial association official, agent or representative, or any other person who shall accept an application for an additional benefit from a member of a burial association without collecting the additional membership fee and the additional assessment due thereon from any such person making such an application for an additional benefit shall be guilty of a ~~misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars ($250.00), or imprisoned not less than 12 months, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----FREE FUNERAL AND AMBULANCE, ETC. SERVICES ACTING FOR ANY BURIAL ASSOCIATION; FAILURE TO MAKE PROPER ASSESSMENTS, ETC.

Sec. 1048. G.S. 143B-472.15 reads as rewritten:

"§ *143B-472.15. Free services; failure to make proper assessments, etc., made a misdemeanor.*

Any person or persons who offer free funeral services or free embalming, free ambulance service or any other thing free of charge, acting for any burial association, directly or indirectly, or who so acting shall in any way fail to assess for the amount needed to pay death losses and allowable expenses, shall be guilty of a ~~misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars ($250.00) or imprisoned for not less than 12 months, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----PERSON OR BURIAL ASSOCIATION OFFICIAL MAKING FALSE OR FRAUDULENT STATEMENT FOR ANY BENEFIT FROM ANY BURIAL ASSOCIATION

Sec. 1049. G.S. 143B-472.19 reads as rewritten:

"§ *143B-472.19. Making false or fraudulent statement a misdemeanor.*

Any officer or employee of any burial association authorized to do business under this Article, who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership or for the purpose of obtaining money or any benefit from any burial association transacting business under this Article, or who shall make any false financial statement to the Burial Association Administrator or to the Burial Association Commission or to the membership of the burial association of which such person is an officer or employee shall be guilty of a ~~misdemeanor and shall be fined or imprisoned in the discretion of the court.~~ Class 1 misdemeanor."

-----IMPROPER RELEASE OF INFORMATION BY ANY PERSON WORKING UNDER THE SUPERVISION OF THE DIRECTOR OF VICTIMS AND JUSTICE SERVICES; PENALTY

Sec. 1050. G.S. 143B-499.6 reads as rewritten:

"§ *143B-499.6. Improper release of information; penalty.*

Any person working under the supervision of the Director of Victims and Justice Services who knowingly and willfully releases, or authorizes the release of, any data, information, or records maintained or possessed by the Center to any agency, entity, or person other than as specifically permitted by Part 5A or in violation of any rule adopted by the Secretary is guilty of a ~~misdemeanor and, upon conviction, shall be punished by a fine of not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000), imprisonment of no less than 30 days nor more than 90 days, or both.~~ Class 2 misdemeanor."

-----ERECTION OF PIERS ON STATE LAKES RESTRICTED

Sec. 1051. G.S. 146-13 reads as rewritten:

"§ *146-13. Erection of piers on State lakes restricted.*

No person, firm, or corporation shall erect upon the floor of, or in or upon, the waters of any State lake, any dock, pier, pavilion, boathouse, bathhouse, or other structure, without first having secured a permit to do so from the Department of Administration, or from the agency designated by the Department to issue such permits. Each permit shall set forth in required detail the size, cost, and nature of such structure; and any person, firm, or corporation erecting any such structure without a proper permit or not in accordance with the specifications of such permit shall be guilty of a ~~misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor. The State may immediately proceed to remove such unlawful structure through due process of law, or may abate or remove the same as a nuisance after five days' notice."

-----CUTTING TIMBER ON LAND BEFORE OBTAINING A GRANT

Sec. 1052. G.S. 146-43 reads as rewritten:

"§ *146-43. Cutting timber on land before obtaining a grant.*

If any person shall make an entry of any lands, and before perfecting title to same shall enter upon such lands and cut therefrom any wood, trees, or timber, he shall be guilty of a Class 1 misdemeanor. Any person found guilty under the provisions of this section shall further pay to the State double the value of the wood, trees, or timber taken from the land, and it shall be the duty of the solicitor of the district in which the land lies to sue for the same."

-----UNLAWFUL TO PAY MORE THAN ALLOWANCE FOR STATE MILEAGE

Sec. 1053. G.S. 147-9 reads as rewritten:

"§ *147-9. Unlawful to pay more than allowance.*

It shall be unlawful for any officer, auditor, bookkeeper, clerk or other employee of the State of North Carolina or any subdivision thereof to knowingly approve any claim or charge on the part of any person for mileage by reason of the use of any motor vehicle owned by the State or any subdivision thereof or by any person and used in the pursuit of his employment or office in excess of seven cents (7¢) per mile as set out in G.S. 147-8 and any officer, auditor, bookkeeper, clerk or other employee violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

-----ORDERS, RULES AND REGULATIONS OF THE GOVERNOR OF NORTH CAROLINA

Sec. 1054. G.S. 147-33.3 reads as rewritten:

"§ *147-33.3. Orders, rules and regulations.*

All orders, rules and regulations promulgated by the Governor pursuant to this Article shall have the full force and effect of law from and after the date of the filing of a duly authenticated copy thereof in the office of the Secretary of State. All laws, ordinances, rules and regulations, insofar as they are inconsistent with the provisions of this Article or of any rule, order or regulation made pursuant to this Article, shall be suspended during the period of time and to the extent that such conflict exists. A violation of any such order, rule or regulation, unless otherwise provided therein, shall be deemed a ~~misdemeanor and punishable as such.~~ Class 1 misdemeanor."

-----LIABILITY FOR FALSE ENTRIES IN THE BOOKS OF THE TREASURER OF THE STATE

Sec. 1055. G.S. 147-76 reads as rewritten:

"§ *147-76. Liability for false entries in his books.*

If the Treasurer of the State shall wittingly or falsely make, or cause to be made, any false entry or charge in any book by him as Treasurer, or shall wittingly or falsely form, or procure to be formed, any statement of the treasury, to be by him laid before the Governor, the General Assembly, or any committee thereof, or to be by him used in any settlement which he is required to make with intent, in any of said instances, to defraud the State or any person, such Treasurer shall be guilty of a ~~misdemeanor, and fined, at the discretion of the court, not exceeding three thousand dollars ($3,000), and imprisoned not exceeding three years.~~ Class 1 misdemeanor."

-----DEPOSITS TO BE SECURED BY TREASURER OF THE STATE; REPORTS OF DEPOSITORIES

Sec. 1056. G.S. 147-79(c) reads as rewritten:

"(c) Violation of the provisions of this section shall be a ~~misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court,~~ Class 1 misdemeanor."

-----DEPOSIT IN BANKS OTHER THAN BANKS SELECTED BY TREASURER OF THE STATE UNLAWFUL; LIABILITY

Sec. 1057. G.S. 147-80 reads as rewritten:

"§ *147-80. Deposit in other banks unlawful; liability.*

It shall be unlawful for any funds of the State to be deposited by any person, institution, or department or agency in any place or bank or trust company, other than those so selected and designated as official depositories of the State of North Carolina by the State Treasurer, and any person so offending or aiding and abetting in such offense shall be guilty of a Class 1 misdemeanor ~~and punished by a fine or imprisonment, or both, in the discretion of the court,~~ and any person so offending or aiding and abetting in such offense shall also immediately become civilly liable to the State of North Carolina in the amount of the money or funds unlawfully deposited, and, at the instance of the State Treasurer, or at the instance of the Governor, the Attorney General shall forthwith institute the civil action in the name of the State of North Carolina against such person or persons, either in the courts of Wake County, according to their respective jurisdiction, or in the county in which said unlawful deposit has been made, according to the selection made by the officer requesting the institution of such action, for the purpose of recovering the amount of the money so unlawfully deposited, with interest thereon at six percent (6%) per annum, and for the cost of said action, and the court in which said action is tried may also tax, as a part of the cost in said action, to the use of the State of North Carolina, a sum sufficient to reimburse the State of North Carolina for all expense incidental to or connected with the preparation and prosecution of such action."

-----ESCAPING OR ATTEMPTING ESCAPE FROM STATE PRISON SYSTEM

Sec. 1058. G.S. 148-45(d) reads as rewritten:

"(d) Any person who aids or assists other persons to escape or attempt to escape from the State prison system shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be imprisoned at the discretion of the court,~~ Class 1 misdemeanor."

-----PRIVACY OF EMPLOYEE PERSONNEL RECORDS

Sec. 1059. G.S. 153A-98(e) reads as rewritten:

"(e) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a Class 3 misdemeanor and upon conviction shall only be fined an amount not more than five hundred dollars ($500.00)."

Sec. 1060. G.S. 153A-98(f) reads as rewritten:

"(f) Any person, not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars ($500.00)."

-----SUPERVISION OF LOCAL CONFINEMENT FACILITIES

Sec. 1061. G.S. 153A-224(c) reads as rewritten:

"(c) If a person violates any provision of this section, he is guilty of a Class 1 misdemeanor."

-----MEDICAL CARE OF PRISONERS

Sec. 1062. G.S. 153A-225(c) reads as rewritten:

"(c) If a person violates any provision of this section (including the requirements regarding G.S. 130-97 and 130-121), he is guilty of a Class 1 misdemeanor."

-----PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

Sec. 1063. G.S. 153A-334 reads as rewritten:

"*§ 153A-334. Penalties for transferring lots in unapproved subdivisions.*

If a person who is the owner or the agent of the owner of any land located within the territorial jurisdiction of a county that has adopted a subdivision regulation ordinance subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the ordinance and recorded in the office of the appropriate register of deeds, he is guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The county may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance."

-----FAILURE OF THE COUNTY BUILDING INSPECTORS TO PERFORM DUTIES

Sec. 1064. G.S. 153A-356 reads as rewritten:

"*§ 153A-356. Failure to perform duties.*

If a member of an inspection department willfully fails to perform the duties required of him by law, or willfully improperly issues a permit, or gives a certificate of compliance without first making the inspections required by law, or willfully improperly gives a certificate of compliance, he is guilty of a Class 1 misdemeanor."

-----BUILDING PERMITS REQUIRED TO CONFORM WITH STATE BUILDING CODE

Sec. 1065. G.S. 153A-357(a) reads as rewritten:

"(a) No person may commence or proceed with:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building;

(2) The installation, extension, or general repair of any plumbing system;

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system; or

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment

without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor."

-----STOP ORDERS OF BUILDING DESTRUCTION OR CONSTRUCTION

Sec. 1066. G.S. 153A-361 reads as rewritten:

"*§ 153A-361. Stop orders.*

Whenever a building or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of a State or local building law or local building ordinance or regulation, or in a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or that presents such a hazard to be immediately stopped. The stop order shall be in writing and directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within five days after the day the order is issued. The owner or builder shall give to the Commissioner of Insurance or his designee written notice of appeal, with a copy to the local inspector. The Commissioner or his designee shall promptly conduct an investigation and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner or his designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his designee on an appeal, no further work may take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the options of:

(1) Appealing to the Building Code Council, or

(2) Appealing to the Superior Court as provided in G.S.143-141.

Violation of a stop order constitutes a Class 1 misdemeanor."

-----CERTIFICATES OF COMPLIANCE REQUIRED ONCE BUILDING COMPLETE TO RECEIVE A PERMIT

Sec. 1067. G.S. 153A-363 reads as rewritten:

"*§ 153A-363. Certificates of compliance.*

At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection. If he finds that the completed work complies with all applicable State and local laws and local ordinances and regulations and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or removed may be occupied until the inspection department has issued a certificate of compliance. A temporary certificate of compliance may

be issued permitting occupancy for a stated period of specified portions of the building that the inspector finds may safely be occupied before completion of the entire building. Violation of this section constitutes a Class 1 misdemeanor."

-----REMOVING NOTICE FROM CONDEMNED BUILDING

Sec. 1068. G.S. 153A-367 reads as rewritten:

"§ *153A-367. Removing notice from condemned building.*

If a person removes a notice that has been affixed to a building by a local inspector and that states the dangerous character of the building, he is guilty of a Class 1 misdemeanor."

-----FAILURE TO COMPLY WITH ORDER TO TAKE CORRECTIVE ACTION TO MAKE A BUILDING SAFE

Sec. 1069. G.S. 153A-371 reads as rewritten:

"§ *153A-371. Failure to comply with order.*

If the owner of a building fails to comply with an order issued pursuant to G.S. 153A-369 from which no appeal has been taken, or fails to comply with an order of the board of commissioners following an appeal, he is guilty of a Class 1 misdemeanor."

-----OBSTRUCTING CANAL OR DITCH DUG UNDER AGREEMENT

Sec. 1070. G.S. 156-19 reads as rewritten:

"§ *156-19. Obstructing canal or ditch dug under agreement.*

Where two or more persons have dug a canal or ditch along any natural drain or waterway under parol agreement, or otherwise, wherein all the parties shall have contributed to the digging thereof, if any servient or lower owner shall fill up or obstruct said canal or ditch without the consent of the higher owners and without providing other drainage for the higher lands, he shall be guilty of a ~~misdemeanor and be fined not exceeding fifty dollars ($50.00) or imprisoned not more than 30 days.~~ Class 3 misdemeanor."

-----OBSTRUCTING DRAIN CUT BY CONSENT

Sec. 1071. G.S. 156-24 reads as rewritten:

"§ *156-24. Obstructing drain cut by consent.*

If any person shall stop or in any way obstruct the passage of the water in any ditch or canal having been cut through lands of any person by consent of the owner of said land, before giving the interested parties a reasonable time to comply with the mode of proceedings provided for the drainage of lowlands, he shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor."

-----PROTECTION OF CANALS, DITCHES, AND NATURAL DRAINS

Sec. 1072. G.S. 156-25 reads as rewritten:

"§ *156-25. Protection of canals, ditches, and natural drains.*

If any person shall fell any tree in any ditch, canal, or natural drainway of any farm, unless he shall remove the same and put such ditch, canal, or natural drainway in as good condition as it was before such tree was so felled; or if any person shall stop up or fill in such ditch, canal, or drainway and thereby obstruct the free passage of water along the said ditch, canal, or drainway, unless the said person shall first secure the written consent of the landowner, and those damaged by such obstruction in said ditch, canal, or drainway, or unless such person so filling in and stopping up such ditch, canal, or drainway shall, upon the demand of the person so damaged, clean out and put the said ditch, canal, or drainway in as good condition as the same was before such filling in and stopping up of the said ditch, canal, or drainway happened, he shall be guilty of a ~~misdemeanor, and upon conviction shall be fined not less than ten ($10.00) nor more than fifty dollars ($50.00), or imprisoned not less than 10 nor more than 30 days.~~ Class 3 misdemeanor."

-----PETITION FILED WITH THE COUNTY BOARD OF COMMISSIONERS TO PROMOTE AGRICULTURAL INTEREST

Sec. 1073. G.S. 156-32 reads as rewritten:

"§ *156-32. Petition filed; board appointed; refusal to serve misdemeanor.*

Upon the petition of three citizens in any county to the county commissioners, petitioning for the draining of any creek, swamp, or branch, either upon the plea of health or to promote and advance the agricultural interest of the farmers who may own lands lying on such creek, swamp, or branch petitioned to be drained, the county commissioners shall within 10 days after the filing of such petition order the county surveyor to summon three disinterested freeholders, good and lawful men of intelligence and discretion, who shall constitute a board, and the county surveyor shall be the chairman of such board; and the chairman shall give all persons who may be interested in having such creek, swamp, or branch drained three days' notice of the time and place of the meeting of the board: Provided, the petitioners shall deposit with the county treasurer the sum of twenty-five dollars ($25.00) for the payment of current expenses not otherwise provided for in this Article. Any person duly summoned by the county surveyor to act as a commissioner for the drainage of any such creek, swamp, or branch, who shall refuse to serve, shall be guilty of a ~~misdemeanor and be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days.~~ Class 3 misdemeanor."

-----DUTIES OF BOARD OF COUNTY COMMISSIONERS; REFUSAL TO COMPLY WITH THEIR REQUIREMENTS

Sec. 1074. G.S. 156-33 reads as rewritten:

"*§ 156-33. Duty of board; refusal to comply with their requirements misdemeanor.*

The board provided for in G.S. 156-32 shall meet at the call of the chairman and shall proceed to inspect and examine the lands as described in the petition to be drained, and the board shall have power to summon witnesses, administer oaths, and take testimony, and if the board decides that the lands specified in the petition shall be drained, either upon the plea of health or for the benefit of the farms lying on or contiguous to such watercourse, then the board shall select a place at which the ditch shall be begun. They shall also decide the depth and width of the ditch to be dug, and shall proceed to survey, locate, lay off, and mark the course of the ditch, and the board shall assign to the landowners the amount of the labor to be performed and the amount of money to be paid for the purpose of defraying the necessary expenses by each landowner in proportion to the amount of lands drained or pro rata benefits received by the drainage of such lands, and the board shall specify the time in which the work so assigned shall be completed: Provided, no one shall be required to commence on the work assigned to him until the person next below him shall have completed his work in accordance with the specifications of the board. If any person shall refuse to comply with any of the requirements of the board he shall be guilty of a ~~misdemeanor and fined not exceeding two hundred dollars ($200.00), or imprisoned not exceeding two years.~~ Class 1 misdemeanor."

-----CONTROL AND REPAIRS BY DRAINAGE COMMISSIONERS

Sec. 1075. G.S. 156-92 reads as rewritten:

"*§ 156-92. Control and repairs by drainage commissioners.*

Whenever any improvement constructed under this Subchapter is completed it shall be under the control and supervision of the board of drainage commissioners. It shall be the duty of the board to keep the levee, ditch, drain, or watercourse in good repair, and for this purpose they may levy an assessment on the lands benefited by the maintenance or repair of such improvement in the same manner and in the same proportion as the original assessments were made, and the fund that is collected shall be used for repairing and maintaining the ditch, drain, or watercourse in perfect order: Provided, however, that if any repairs are made necessary by the act or negligence of the owner of any land through which such improvement is constructed or by the act or negligence of his agent or employee, or if the same is caused by the cattle, hogs, or other stock of such owner, employee, or agent, then the cost thereof shall be assessed and levied against the lands of the owner alone, to be collected by proper suit instituted by the drainage commissioners. It shall be unlawful for any person to

injure or damage or obstruct or build any bridge, fence, or floodgate in such a way as to injure or damage any levee, ditch, drain, or watercourse constructed or improved under the provisions of this Subchapter, and any person causing such injury shall be guilty of a Class 3 misdemeanor, and upon conviction thereof may only be fined in any sum not exceeding twice the damage or injury done or caused."

-----SHERIFF MAKE MONTHLY SETTLEMENTS WITH THE TREASURER

Sec. 1076. G.S. 156-111 reads as rewritten:

"§ *156-111. Sheriff to make monthly settlements; penalty.*

The sheriff or tax collector shall be required to make settlements with the treasurer on the first day of each month of all collections of drainage assessments for the preceding month, and to pay over to the treasurer the money so collected, for which the treasurer shall execute an appropriate receipt, to the end that the treasurer may have funds in hand to meet the payments of the interest and principal due upon the outstanding bonds as they mature. If any sheriff or tax collector shall fail to comply with the law for the collection of drainage assessments, or in making payments thereof to the treasurer as provided by law, he shall be guilty of a Class 1 misdemeanor ~~and, upon conviction, shall be subject to fine and imprisonment, in the discretion of the court,~~ and he shall likewise be liable in a civil action for all damages which may accrue either to the board of drainage commissioners or to the holder of the bonds, to either or both of whom a right of action is given."

-----DUTY OF TREASURER TO MAKE PAYMENT ON THE INTEREST AND PRINCIPAL OF BONDS REGARDING DRAINAGE; PENALTY

Sec. 1077. G.S. 156-112 reads as rewritten:

"§ *156-112. Duty of treasurer to make payment; penalty.*

It shall be the duty of the treasurer, and without any previous order from the board of drainage commissioners, to provide and pay the installments of interest at the time and place as evidenced by the coupons attached to the bonds, and also to pay the annual installments of the principal due on the bonds at the time and place as evidenced by the bonds. The treasurer shall be guilty of a Class 1 misdemeanor ~~and subject, upon conviction, to fine and imprisonment, in the discretion of the court,~~ if he shall willfully fail to make prompt payments of the interest and principal of the bonds, and he shall likewise be liable in a civil action for all damages which may accrue either to the board of drainage commissioners or to the holder of such bonds, to either or both of whom a right of action is hereby given."

-----CONVEYANCE OF LAND; CHANGE IN ASSESSMENT ROLL

Sec. 1078. G.S. 156-114(e) reads as rewritten:

"(e) Failure of Chairman of Board to Act. -- If the chairman of the board of drainage commissioners shall fail to act when any petition shall be submitted to him as herein provided, or the chairman or any member of the board shall fail to discharge any duty imposed by this section or any other provision of the general drainage law, it is hereby made the duty of the clerk of the superior court, either independently or upon the request of any landowner in the district, to cite such chairman or member to appear before him upon a certain day and show cause why he should not be removed from office, and unless good cause be shown, it shall be the duty of the clerk to remove the chairman or any member of the board of drainage commissioners and to certify his action, to the end that another member may be elected according to law. If the failure of the chairman or any member of the board of drainage commissioners to discharge such duty shall be willful, he shall be guilty of a ~~misdemeanor, and upon conviction shall be punished by fine or imprisonment, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----PENALTY FOR FAILURE OF DRAINAGE COMMISSIONERS TO FILE ANNUAL REPORT AND CANAL CONSTRUCTION ACCOUNTS

Sec. 1079. G.S. 156-132 reads as rewritten:

"§ *156-132. Penalty for failure.*

Any board of commissioners of any drainage district in the State, and each of the members thereof, which shall fail or refuse to file the statements or accounts, as provided in G.S. 156-130 and 156- 131, shall be deemed guilty of a ~~misdemeanor and upon conviction shall be punished in the discretion of the court.~~ Class 1 misdemeanor."

-----FRAUDULENT MISREPRESENTATION; HOUSING ASSISTANCE

Sec. 1080. G.S. 157-29.1(a) reads as rewritten:

"(a) Any person whether provider or recipient, or person representing himself as such, who willfully and knowingly and with intent to deceive makes a false statement or representation or who willfully and knowingly and with intent to deceive fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact obtains, for himself or another person, attempts to obtain for himself or another person, or continues to receive housing assistance in the amount or value of not more than four hundred dollars ($400.00) is guilty of a ~~misdemeanor, and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.~~ Class 1 misdemeanor."

-----ANNUAL INDEPENDENT AUDIT OF EACH LOCAL GOVERNMENT AND PUBLIC AUTHORITY

Sec. 1081. G.S. 159-34(a) reads as rewritten:

"(a) Each unit of local government and public authority shall have its accounts audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Commission as qualified to audit local government accounts. When specified by the secretary, the audit shall evaluate the performance of a unit of local government or public authority with regard to compliance with all applicable federal and State agency regulations. This audit, combined with the audit of financial accounts, shall be deemed to be the single audit described by the "Federal Single Audit Act of 1984". The auditor shall be selected by and shall report directly to the governing board. The audit contract or agreement shall (i) be in writing, (ii) include the entire entity in the scope of the audit, except that an audit for purposes other than the annual audit required by this section should include an accurate description of the scope of the audit, (iii) require that a typewritten or printed report on the audit be prepared as set forth herein, (iv) include all of its terms and conditions, and (v) be submitted to the secretary for his approval as to form, terms, conditions, and compliance with the rules of the Commission. As a minimum, the required report shall include the financial statements prepared in accordance with generally accepted accounting principles, all disclosures in the public interest required by law, and the auditor's opinion and comments relating to financial statements. The audit shall be performed in conformity with generally accepted auditing standards. The finance officer shall file a copy of the audit report with the secretary, and shall submit all bills or claims for audit fees and costs to the secretary for his approval. Before giving his approval the secretary shall determine that the audit and audit report substantially conform to the requirements of this section. It shall be unlawful for any unit of local government or public authority to pay or permit the payment of such bills or claims without this approval. Each officer and employee of the local government or local public authority having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information relating to fiscal affairs as he may request. If any member of a governing board or any other public officer or employee shall conceal, falsify, or refuse to deliver or divulge any books, records, or information, with an attempt thereby to mislead the auditor or impede or interfere with the audit, he is guilty of a ~~misdemeanor and upon conviction thereof may be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one year, or both, in the discretion of the court.~~ Class 1 misdemeanor."

-----ENFORCEMENT OF CHAPTER ON LOCAL GOVERNMENT FINANCE

Sec. 1082. G.S. 159-181(a) reads as rewritten:

"(a) If any finance officer, governing board member, or other officer or employee of any local government or public authority (as local government and public authority are defined in G.S. 159-7(b)) shall approve any claim or bill knowing it to be fraudulent, erroneous, or otherwise invalid, or make any written statement, give any certificate, issue any report, or utter any other document required by this Chapter, knowing that any portion of it is false, or shall willfully fail or refuse to perform any duty imposed upon him by this Chapter, he is guilty of a Class 3 misdemeanor and upon conviction shall only be fined not more than one thousand dollars ($1,000) and forfeits his office, and shall be personally liable in a civil action for all damages suffered thereby by the unit or authority or the holders of any of its obligations."

-----POWER OF INVESTIGATION OF THE GOVERNING BOARD OF A CITY; SUBPOENA POWER

Sec. 1083. G.S. 160A-80(b) reads as rewritten:

"(b) If a person fails or refuses to obey a subpoena issued pursuant to this section, the council may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the council pursuant to a subpoena issued in exercise of the power conferred by this section may be used against him on the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. If any person, while under oath at an investigation by the council, willfully swears falsely, he is guilty of a Class 1 misdemeanor."

-----PRIVACY OF EMPLOYEE PERSONNEL RECORDS

Sec. 1084. G.S. 160A-168(e) reads as rewritten:

"(e) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a Class 3 misdemeanor and upon conviction shall only be fined an amount not more than five hundred dollars ($500.00)."

Sec. 1085. G.S. 160A-168(f) reads as rewritten:

"(f) Any person, not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars ($500.00)."

-----REGULATION OF DUNE BUGGIES

Sec. 1086. G.S. 160A-308 reads as rewritten:

"§ *160A-308. Regulation of dune buggies.*

A municipality may by ordinance regulate, restrict and prohibit the use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or any other form of power-driven vehicle specified by the governing body of the municipality on the foreshore, beach strand and the barrier dune system. Violation of any ordinance adopted by the governing body of a municipality pursuant to this ~~section is a misdemeanor, punishable by a fine of not more than fifty dollars ($50.00), or by imprisonment for not more than 30 days, or both in the discretion of the court.~~ Class 3 misdemeanor.

Provided, a municipality shall not prohibit the use of such specified vehicles from the foreshore, beach strand and barrier dune system by commercial fishermen for commercial activities. Commercial fishermen, however, shall abide by all other regulations or restrictions duly enacted by municipalities under this section."

-----PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

Sec. 1087. G.S. 160A-375 reads as rewritten:

"§ *160A-375. Penalties for transferring lots in unapproved subdivisions.*

If a city adopts an ordinance regulating the subdivision of land as authorized herein, any person who, being the owner or agent of the owner of any land located within the jurisdiction of that city, thereafter subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such ordinance and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The city may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance."

-----BOARD OF ADJUSTMENT OF ZONING

Sec. 1088. G.S. 160A-388(g) reads as rewritten:

"(g) The board of adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness

before the board of adjustment pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor."

-----FAILURE OF BUILDING INSPECTION DEPARTMENT TO PERFORM DUTIES

Sec. 1089. G.S. 160A-416 reads as rewritten:

"§ *160A-416. Failure to perform duties.*

If any member of an inspection department shall willfully fail to perform the duties required of him by law, or willfully shall improperly issue a permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, he shall be guilty of a Class 1 misdemeanor."

-----PERMITS FOR BUILDING AND COMPLIANCE WITH THE STATE BUILDING CODE

Sec. 1090. G.S. 160A-417(a) reads as rewritten:

"(a) No person shall commence or proceed with:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure,

(2) The installation, extension, or general repair of any plumbing system,

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system, or

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment,

without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit

for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor."

-----STOP ORDERS WITH REGARD TO BUILDING CONSTRUCTION

Sec. 1091. G.S. 160A-421(d) reads as rewritten:

"(d) Violation of a stop order shall constitute a Class 1 misdemeanor."

-----CERTIFICATES OF COMPLIANCE WITH BUILDING CODE; PREREQUISITE TO RECEIVING PERMIT

Sec. 1092. G.S. 160A-423 reads as rewritten:

"§ *160A-423. Certificates of compliance.*

At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection, and if he finds that the completed work complies with all applicable State and local laws and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be occupied, and no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department has issued a certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the inspector finds may safely be occupied prior to final completion of the entire building. Violation of this section shall constitute a Class 1 misdemeanor."

-----REMOVING NOTICE FROM CONDEMNED BUILDING

Sec. 1093. G.S. 160A-427 reads as rewritten:

"§ *160A-427. Removing notice from condemned building.*

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any municipality and that states the dangerous character of the building or structure, he shall be guilty of a Class 1 misdemeanor."

-----FAILURE TO COMPLY WITH ORDER BUILDING ORDER OF THE CITY COUNCIL

Sec. 1094. G.S. 160A-431 reads as rewritten:

"§ *160A-431. Failure to comply with order.*

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160A-429 from which no appeal has been taken, or fails to comply with an order of the city council following an appeal, he shall be guilty of a ~~misdemeanor and shall be punished in the discretion of the court.~~ Class 1 misdemeanor."

-----ORDINANCE AUTHORIZED AS TO REPAIR, CLOSING, AND DEMOLITION; ORDER OF PUBLIC OFFICER

Sec. 1095. G.S. 160A-443(4) reads as rewritten:

"(4) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered or improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: 'This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.' Occupation of a building so posted shall constitute a Class 1 misdemeanor."

-----INDEX OF REGISTERED INSTRUMENTS

Sec. 1096. G.S. 161-22(i) reads as rewritten:

"(i) A violation of this section shall constitute a Class 1 misdemeanor."

-----REGISTER OF DEEDS FAILING TO DISCHARGE DUTIES; PENALTY

Sec. 1097. G.S. 161-27 reads as rewritten:

"§ *161-27. Register of deeds failing to discharge duties; penalty.*

If any register of deeds fails to perform any of the duties imposed or authorized by law, he shall be guilty of a Class 1 misdemeanor, and ~~besides other punishments at the discretion of the court,~~ he shall be removed from office."

-----INJURY TO PRISONER BY JAILER

Sec. 1098. G.S. 162-55 reads as rewritten:

"§ *162-55. Injury to prisoner by jailer.*

If the keeper of a jail shall do, or cause to be done, any wrong or injury to the prisoners committed to his custody, contrary to law, he shall not only pay treble damages to the person injured, but shall be guilty of a Class 1 misdemeanor."

-----ASSISTANCE TO VOTERS IN PRIMARIES AND GENERAL ELECTIONS

Sec. 1099. G.S. 163-152(e) reads as rewritten:

"(e) Violation of Section. -- It shall be a Class 2 misdemeanor for any person to give, receive, or permit assistance in the voting booth during any primary or general election or election to any voter otherwise than as is allowed by this section."

-----AGED AND DISABLED PERSONS ALLOWED TO VOTE OUTSIDE VOTING ENCLOSURE

Sec. 1100. G.S. 163-155 reads as rewritten:

"*§ 163-155. Aged and disabled persons allowed to vote outside voting enclosure.*

In any primary or election any qualified voter who is able to travel to the voting place, but because of age, or physical disability and physical barriers encountered at the voting place is unable to enter the voting place or enclosure to vote in person without physical assistance, shall be allowed to vote either in the vehicle conveying such person to the voting place or in the immediate proximity of the voting place under the following restrictions:

(1) The county board of elections shall have printed and numbered a sufficient supply of affidavits to be distributed to each precinct registrar which shall be in the following form:

'Affidavit of person voting outside voting place or enclosure.

State of North Carolina

County of _____

I do solemnly swear (or affirm) that I am a registered voter in _____ precinct. That because of age or physical disability I am unable to enter the voting place to vote in person without physical assistance. That I desire to vote outside the voting place and enclosure.

I understand that a false statement as to my condition will subject me to a fine not to exceed one thousand dollars ($1,000) or imprisonment not to exceed six months, or both.

_____ _____

Date Signature of Voter

_____

Address

_____

Signature of assistant who administered oath.'

(2) The registrar shall designate one of the assistants, appointed under G.S. 163-42 to attend the voter. Upon arrival outside the voting place, the voter shall execute the affidavit after

being sworn by the assistant. The ballots shall then be delivered to the voter who shall mark the ballots and hand them to the assistant. The ballots shall then be delivered to one of the judges of elections who shall deposit the ballots in the proper boxes. The affidavit shall be delivered to the other judge of election.

(3) The voter shall be entitled to the same assistance in marking the ballots as is authorized by G.S. 163-152.

(4) The affidavit executed by the voter shall be retained by the county board of elections for a period of six months. In those precincts using voting machines, the county board of elections shall furnish paper ballots of each kind for use by persons authorized to vote outside the voting place by this section.

(5) If there is no assistant appointed under G.S. 163-42 to perform the duties required by this section, the precinct registrar or one of the precinct judges, to be designated by the voter, if he chooses, or, if he does not, by the precinct registrar, shall perform those duties.

A violation of this section is a Class 2 misdemeanor."

-----PRESERVATION OF BALLOTS; LOCKING AND SEALING BALLOT BOXES; SIGNING CERTIFICATES

Sec. 1101. G.S. 163-171 reads as rewritten:

"*§ 163-171. Preservation of ballots; locking and sealing ballot boxes; signing certificates.*

When the precinct count is completed after a primary or election, all ballots shall be put back in the ballot boxes from which they were taken, and the registrar and judges shall promptly lock and place a seal around the top of each ballot box, so that no ballot may be taken from or put in it. The registrar and judges shall then sign the seal on each ballot box. In the alternative, the county board of elections may permit the precinct officials to put the counted ballots back in one ballot box or more to facilitate safekeeping provided the board prescribes an appropriate procedure to keep the different kinds of ballots separated in bundles or bags within the box.

Ballot boxes in which ballots have been placed and which have been locked and sealed as required by the preceding paragraph shall remain in the safe custody of the registrar, subject to the orders of the chairman of the county board of elections as to their disposition; provided that ballot boxes with paper ballots shall be delivered in person to the office of the county board of elections; provided further that in the case of paper ballots which have been counted either mechanically or electronically either the counting machines with the paper ballots sealed inside shall be delivered in person to the office of

the county board of elections, or the paper ballots shall be placed in ballot boxes, sealed, and those boxes shall be delivered in person to the office of the county board of elections. The ballots and ballot boxes shall be delivered at a time specified by the county board of elections. No ballot box shall be opened except upon the written order of the county board of elections or upon a proper order of court.

Ballots cast in a primary or general election shall be preserved for at least two months after the primary or general election in which voted.

On each precinct return form there shall be printed a statement to be signed by the registrar and judges certifying that, after the precinct count was completed, each ballot box was properly locked, sealed, and the seals signed, as prescribed in this section, before the precinct officials left the voting place on the night of the primary or election.

Willful failure to securely lock, seal, and sign the seal on each ballot box on the night of any primary or election, and willful failure to sign the certificate on the duplicate return forms certifying that this was done, shall constitute a Class 2 misdemeanor.

In the event that a recount is requested as provided by law or there is other filing of an appeal of the election results, the county board of elections shall seal and secure the ballots, ballot boxes, and voting machines within a uniform period of time set by the State Board of Elections, to the extent that such actions have not already been taken as required by law. The aforementioned items shall then be stored in locations that are securely locked by members of the county board of elections. In counties that utilize voting machines or voting systems the county board of elections shall be required to store in one location that record on which the official vote cast is recorded."

-----HOW PRECINCT RETURNS ARE TO BE MADE

Sec. 1102. G.S. 163-173 reads as rewritten:

"*§ 163-173. How precinct returns are to be made.*

In each precinct, when the results of the counting of the ballots have been ascertained they shall be recorded in original and duplicate statements to be prepared, signed, and certified to by the registrar and judges on forms provided by the county board of elections.

One of the statements of the voting in the precincts shall be placed in a sealed envelope and delivered to the registrar or a judge selected by the precinct officials for the purpose of delivery to the county board of elections for review at its meeting on the second day after the primary or election. The other copy of the statement shall either be mailed immediately or delivered in person immediately, as directed by the county board of elections, by one of the other two precinct election officials, to the chairman of the county board of elections or the

supervisor of elections if authorized by the chairman to receive the statement.

Any registrar or judge appointed to deliver the certified precinct returns who shall fail to deliver them to the county board of elections by 12:00 noon, on the day the board meets to canvass the returns shall be guilty of a Class 2 misdemeanor, unless the failure resulted from illness or other good cause."

-----DISPOSITION OF DUPLICATE VOTING ABSTRACTS

Sec. 1103. G.S. 163-177 reads as rewritten:

"§ *163-177. Disposition of duplicate abstracts.*

Within six hours after the returns of a primary or election have been canvassed and the results judicially determined, the chairman of the county board of elections shall mail, or otherwise deliver, to the State Board of Elections the duplicate-original abstracts prepared in accordance with G.S. 163-176 for all offices and referenda for which the State Board of Elections is required to canvass the votes and declare the results including:

President and Vice-President of the United States

Governor, Lieutenant Governor, and all other State executive officers

United States Senators

Members of the House of Representatives of the United States Congress

Justices, Judges, and District Attorneys of the General Court of Justice

State Senators in multi-county senatorial districts

Members of the State House of Representatives in multi-county representative districts

Constitutional amendments and propositions submitted to the voters of the State.

One duplicate abstract prepared in accordance with G.S. 163-176 for all offices and referenda for which the county board of elections is required to canvass the votes and declare the results (and which are listed below) shall be retained by the county board, which shall forthwith publish and declare the results; the second duplicate abstract shall be mailed to the chairman of the State Board of Elections, to the end that there be one set of all primary and election returns available at the seat of government.

All county offices

State Senators in single-county senatorial districts

Members of the State House of Representatives in single-county representative districts

Propositions submitted to the voters of one county.

If the chairman of the county board of elections fails or neglects to transmit duplicate abstracts to the chairman of the State Board of Elections within the time prescribed in this section, he shall be guilty of a Class 2 misdemeanor. Provided, that the penalty shall not apply if the chairman was prevented from performing the prescribed duty because of sickness or other unavoidable delay, but the burden of proof shall be on the chairman to show that his failure to perform was due to sickness or unavoidable delay."

-----PERSONS MAY NOT SIGN NAME OF ANOTHER TO PETITION

Sec. 1104. G.S. 163-221(c) reads as rewritten:

"(c) Any person who willfully violates this section is guilty of a Class 2 misdemeanor."

-----VIOLATIONS BY CHAIRMAN OF COUNTY BOARD OF ELECTIONS

Sec. 1105. G.S. 163-236 reads as rewritten:

"*§ 163-236. Violations by chairman of county board of elections.*

The chairman of the county board of elections shall be sole custodian of blank applications for absentee ballots, official ballots, and container-return envelopes for absentee ballots. He shall issue and deliver blank applications for absentee ballots in strict accordance with the provisions of G.S. 163-227(c). The issuance of ballots to persons whose applications for absentee ballots have been approved by the county board of elections under the provisions of G.S. 163-230(3) is the responsibility and duty of the chairman of the county board of elections.

It shall be the duty of the chairman of the county board of elections to keep current all records required of him by this Article and to make promptly all reports required of him by this Article.

The willful violation of this section shall constitute a Class 2 misdemeanor."

-----CERTAIN VIOLATIONS OF ABSENTEE BALLOT LAW

Sec. 1106. G.S. 163-237 reads as rewritten:

"*§ 163-237. Certain violations of absentee ballot law made criminal offenses.*

(a) False Statements under Oath Made Class 2 misdemeanor. -- If any person shall willfully and falsely make any affidavit or statement, under oath, which affidavit or statement under oath, is required to be made by the provisions of this Article, he shall be guilty of a Class 2 misdemeanor.

(b) False Statements Not under Oath Made Class 2 misdemeanor. -- Except as provided by G.S. 163-275(16), if any person, for the purpose of obtaining or voting any official ballot under the provisions of this Article, shall willfully sign any printed or written false

statement which does not purport to be under oath, or which, if it purports to be under oath, was not duly sworn to, he shall be guilty of a Class 2 misdemeanor.

(c) Fraud in Connection with Absentee Vote; Forgery. -- Any person attempting to aid and abet fraud in connection with any absentee vote cast or to be cast, under the provisions of this Article, shall be guilty of a Class 2 misdemeanor. Any person attempting to vote by fraudulently signing the name of a regularly qualified voter shall be guilty of forgery, and be punished accordingly.

(d) Violations Not Otherwise Provided for Made Class 2 misdemeanors. -- If any person shall willfully violate any of the provisions of this Article, or willfully fail to comply with any of the provisions thereof, for which no other punishment is herein provided, he shall be guilty of a Class 2 misdemeanor."

-----VIOLATIONS BY CORPORATIONS MAKING POLITICAL CONTRIBUTION

Sec. 1107. G.S. 163-269 reads as rewritten:

"§ *163-269. Violations by corporations.*

It shall be unlawful for any corporation doing business in this State, either domestic or foreign charter, directly or indirectly to make any contribution or expenditure in aid or in behalf of any candidate or campaign committee in any primary or election held in this State, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used, or for any contribution or expenditure so made; or for any officer, director, stockholder, attorney or agent of any corporation to aid, abet, advise or consent to any such contribution or expenditure, or for any person to solicit or knowingly receive any such contribution or expenditure.

Any officer, director, stockholder, attorney or agent of any corporation aiding or abetting in any contribution or expenditure made in violation of this section shall, in addition to being guilty of a Class 2 misdemeanor as hereinafter set out, be liable to such corporation for the amount of such contribution or expenditure, and the same may be recovered of him upon suit by any stockholder thereof. Any person violating this section shall be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.~~ Class 2 misdemeanor."

-----USING FUNDS OF INSURANCE COMPANIES FOR POLITICAL PURPOSES

Sec. 1108. G.S. 163-270 reads as rewritten:

"§ *163-270. Using funds of insurance companies for political purposes.*

No insurance company or association, including fraternal beneficiary associations, doing business in this State shall, directly or indirectly, pay or use, or offer, consent or agree to pay or use, any

money or property for or in aid of any political party, committee or organization, or for or in aid of any corporation, joint-stock company, or other association organized or maintained for political purposes, or for or in aid of any candidate for political office or for nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used. An officer, director, stockholder, attorney or agent for any corporation or association which violates any of the provisions of this section, who participates in, aids, abets, advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a Class 2 misdemeanor.

Any officer aiding or abetting in any contribution made in violation of this section shall be liable to the company or association for the amount so contributed. The Commissioner of Insurance may revoke the license of any company violating this section. No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial for a violation of any of the provisions of this section, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subjected to any penalty or forefeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon criminal investigation or proceeding."

-----INTIMIDATION OF VOTERS BY OFFICERS

Sec. 1109. G.S. 163-271 reads as rewritten:

"§ *163-271. Intimidation of voters by officers made misdemeanor.*

It shall be unlawful for any person holding any office, position, or employment in the State government, or under and with any department, institution, bureau, board, commission, or other State agency, or under and with any county, city, town, district, or other political subdivision, directly or indirectly, to discharge, threaten to discharge, or cause to be discharged, or otherwise intimidate or oppress any other person in such employment on account of any vote such voter or any member of his family may cast, or consider or intend to cast, or not to cast, or which he may have failed to cast, or to seek or undertake to control any vote which any subordinate of such person may cast, or consider or intend to cast, or not to cast, by threat, intimidation, or declaration that the position, salary, or any part of the salary of such subordinate depends in any manner whatsoever, directly or indirectly, upon the way in which subordinate

or any member of his family casts, or considers or intends to cast, or not to cast his vote, at any primary or election. A violation of this section is a Class 2 misdemeanor."

-----PENALTIES FOR VIOLATION OF ELECTION LAWS

Sec. 1110. G.S. 163-272.1 reads as rewritten:

"§ *163-272.1. Penalties for violation of this Chapter.*

Whenever in this Chapter it is provided that a crime is a misdemeanor, the punishment shall be ~~imprisonment for not more than six months, or a fine of not more than one thousand dollars ($1,000), or both, in the discretion of the court.~~ for a Class 2 misdemeanor."

-----OFFENSES OF VOTERS; INTERFERENCE WITH VOTERS

Sec. 1111. G.S. 163-273(a) reads as rewritten:

"(a) Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful:

(1) For a voter, except as otherwise provided in this Chapter, to allow his ballot to be seen by any person.

(2) For a voter to take or remove, or attempt to take or remove, any ballot from the voting enclosure.

(3) For any person to interfere with, or attempt to interfere with, any voter when inside the voting enclosure.

(4) For any person to interfere with, or attempt to interfere with, any voter when marking his ballots.

(5) For any voter to remain longer than the specified time allowed by this Chapter in a voting booth, after being notified that his time has expired.

(6) For any person to endeavor to induce any voter, while within the voting enclosure, before depositing his ballots, to show how he marks or has marked his ballots.

(7) For any person to aid, or attempt to aid, any voter by means of any mechanical device, or any other means whatever, while within the voting enclosure, in marking his ballots."

-----UNLAWFUL ACTION OF PERSONS ACTING IN CONNECTION WITH PRIMARY OR ELECTION IN NORTH CAROLINA

Sec. 1112. G.S. 163-274 reads as rewritten:

"§ *163-274. Certain acts declared misdemeanors.*

Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful:

(1) For any person to fail, as an officer or as a judge or registrar of a primary or election, or as a member of any board of elections, to prepare the books, ballots, and return blanks which it is his duty under the law to prepare, or to distribute the same as required by law, or to perform any other duty imposed upon him within the time and in the manner required by law;

(2) For any person to continue or attempt to act as a judge or registrar of a primary or election, or as a member of any board of elections, after having been legally removed from such position and after having been given notice of such removal;

(3) For any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of elections;

(4) For any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any registrar or judge of election in the performance of his duties as imposed by law;

(5) For any person to bet or wager any money or other thing of value on any election;

(5a) For any person to be a witness under G.S. 163-231(a) or G.S. 163-250(a) in any primary or election in which the person is a candidate for nomination or election;

(6) For any person, directly or indirectly, to discharge or threaten to discharge from employment, or otherwise intimidate or oppose any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which he may have failed to cast;

(7) For any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such charge;

(8) For any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to be false or in reckless disregard of its truth or falsity, when such report is calculated or intended to affect the chances of such candidate for nomination or election;

(9) For any person to give or promise, in return for political support or influence, any political appointment or support for political office;

(10) For any chairman of a county board of elections or other returning officer to fail or neglect, willfully or of malice, to perform any duty, act, matter or thing required or directed in the time, manner and form in which said duty, matter or thing is required to be performed in relation to any primary, general or special election and the returns thereof;

(11) For any clerk of the superior court to refuse to make and give to any person applying in writing for the same a duly certified copy of the returns of any primary or election or of a tabulated statement to a primary or election, the returns of which are by law deposited in his office, upon the tender of the fees therefor;

(12) For any person willfully and knowingly to impose upon any blind or illiterate voter a ballot in any primary or election contrary to the wish or desire of such voter, by falsely representing to such voter that the ballot proposed to him is such as he desires; or

(13) Except as authorized by G.S. 163-72.2(b), for any person to provide false information, or sign the name of any other person, to a written report under G.S. 163-72.2."

-----LIMITATION ON CAMPAIGN CONTRIBUTIONS

Sec. 1113. G.S. 163-278.13(f) reads as rewritten:

"(f) Any individual, candidate, political committee, or referendum committee who violates the provisions of this section is guilty of a Class 2 misdemeanor."

-----NO FUND-RAISING FROM LOBBYISTS

Sec. 1114. G.S. 163-278.13A(d) reads as rewritten:

"(d) A violation of this section is a Class 2 misdemeanor, but no individual or person shall be prosecuted under this section for accepting or making a contribution unless the State Board of Elections has notified the individual or person of the apparent violation in writing by certified mail, has given the individual or person an opportunity to return or to request the return of the contribution, and, within 10 days of the receipt of the notification, the individual or person has failed to return or to request the return of the contribution."

-----VIOLATIONS OF ELECTION LAWS BY CORPORATIONS, BUSINESS ENTITIES, LABOR UNIONS, PROFESSIONAL ASSOCIATIONS, AND INSURANCE COMPANIES

Sec. 1115. G.S. 163-278.19(a) reads as rewritten:

"(a) Except as provided in G.S. 163-278.19(b), it shall be unlawful for any corporation, business entity, labor union, professional association or insurance company directly or indirectly:

(1) To make any contribution or expenditure (except a loan of money by a national or State bank or federal or State savings and loan association made in accordance with the applicable banking or savings and loan association laws and regulations and in the ordinary course of business) in aid or in behalf of or in opposition to any candidate or political committee in any election or for any political purpose whatsoever;

(2) To pay or use or offer, consent or agree to pay or use any of its money or property for or in aid of or in opposition to any candidate or political committee or for or in aid of any person, organization or association organized or maintained for political purposes, or for or in aid of or in opposition to any candidate or political committee or for any political purpose whatsoever; and

(3) To reimburse or indemnify any person or individual for money or property so used or for any contribution or expenditure so made;

and it shall be unlawful for any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance company to aid, abet, advise or consent to any such contribution or expenditure, or for any person or individual to solicit or knowingly receive any such contribution or expenditure. Any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance company aiding or abetting in any contribution or expenditure made in violation of this section shall be guilty of a Class 2 ~~misdemeanor as hereinafter set out,~~ misdemeanor, and shall in addition be liable to such corporation, business entity, labor union, professional association or insurance company for the amount of such contribution or expenditure, and the same may be recovered of him upon suit by any stockholder or member thereof."

Sec. 1116. G.S. 163-278.19(c) reads as rewritten:

"(c) A violation of this section is a Class 2 misdemeanor. In addition, the acceptance of any contribution, expenditure, payment, reimbursement, indemnification, or anything of value under subsection (a) shall be ~~unlawful and the defendant shall be subject to the same punishment as set forth in this subsection,~~ a Class 2 misdemeanor."

-----DISCLOSURE BEFORE SOLICITING CAMPAIGN CONTRIBUTIONS

Sec. 1117. G.S. 163-278.20(b) reads as rewritten:

"(b) A violation of this section is a Class 2 misdemeanor."

-----PENALTY FOR VIOLATIONS OF ELECTION CONTRIBUTION LAWS

Sec. 1118. G.S. 163-278.27(a) reads as rewritten:

"(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who violates the provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163- 278.11, 163-278.12, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-278.40E is guilty of a Class 2 misdemeanor."

-----VIOLATIONS/APPROPRIATIONS FROM THE POLITICAL PARTIES FINANCING FUND

Sec. 1119. G.S. 163-278.44 reads as rewritten:

"§ *163-278.44. Crime; punishment.*

Any individual person, candidate, political committee, or treasurer who willfully and intentionally violates any of the provisions of this Article, shall be guilty of a Class 2 misdemeanor."

-----DISGUISE A DOG AS AN ASSISTANCE DOG, OR TO DEPRIVE A VISUALLY IMPAIRED PERSON, A HEARING IMPAIRED PERSON, OR A MOBILITY IMPAIRED PERSON OF ANY RIGHTS GRANTED

Sec. 1120. G.S. 168-4.5 reads as rewritten:

"§ *168-4.5. Penalty.*

It is unlawful to disguise a dog as an assistance dog, or to deprive a visually impaired person, a hearing impaired person, or a mobility impaired person of any rights granted the person pursuant to G.S. 168-4.2 through G.S. 168-4.4, or of any rights or privileges granted the general public with respect to being accompanied by dogs, or to charge any fee for the use of the assistance dog. Violation of this section shall be a ~~misdemeanor punishable by imprisonment of not more than 10 days and a fine of not more than two hundred dollars ($200.00),~~ Class 3 misdemeanor."

PART 2. -- FELONIES

-----NOTARIES

Sec. 1121. G.S. 10A-12(c) reads as rewritten:

"(c) Any notary who takes an acknowledgment or performs a verification or proof knowing it is false or fraudulent is guilty of a Class ~~J~~ I felony."

-----REBELLION AGAINST THE STATE

Sec. 1122. G.S. 14-8 reads as rewritten:

"§ *14-8. Rebellion against the State.*

If any person shall incite, set on foot, assist or engage in a rebellion or insurrection against the authority of the State of North Carolina or the laws thereof, or shall give aid or comfort thereto, every person so offending in any of the ways aforesaid shall be guilty of a felony, and shall be punished as a Class ~~G~~ F felon."

-----COUNTERFEITING COIN AND UTTERING COIN

Sec. 1123. G.S. 14-13 reads as rewritten:

"§ *14-13. Counterfeiting coin and uttering coin that is counterfeit.*

If any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting the resemblance or similitude or likeness of a Spanish milled dollar, or any coin of gold or silver which is in common use and received in the discharge of contracts by the citizens of the State; or shall pass, utter, publish or sell, or attempt to pass, utter, publish or sell, or bring into the State from any other place with intent to pass, utter, publish or sell as true, any such false, forged or counterfeited coin, knowing the same to be false, forged or counterfeited, with intent to defraud any person whatsoever, every person so offending shall be punished as a Class ~~H~~ I felon."

-----POSSESSING TOOLS FOR COUNTERFEITING

Sec. 1124. G.S. 14-14 reads as rewritten:

"§ *14-14. Possessing tools for counterfeiting.*

If any person shall have in his possession any instrument for the purpose of making any counterfeit similitude or likeness of a Spanish milled dollar, or other coin made of gold or silver which is in common use and received in discharge of contracts by the citizens of the State, and shall be duly convicted thereof, the person so offending shall be punished as a Class ~~H~~ I felon."

-----ASSAULT ON EXECUTIVE OR LEGISLATIVE OFFICER

Sec. 1125. G.S. 14-16.6 reads as rewritten:

"§ *14-16.6. Assault on executive or legislative officer.*

(a) Any person who assaults any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive officer named in G.S. 147-3(c), or any person who makes a violent attack upon the residence, office, temporary accommodation or means of transport of any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive officer named in G.S. 147-3(c) in a manner likely to endanger such legislative officer or executive officer, shall be guilty of a felony and shall be punished as a Class ~~H~~ I felon.

(b) Any person who commits an offense under subsection (a) and uses a deadly weapon in the commission of that offense shall be punished as a Class ~~G~~ F felon.

(c) Any person who commits an offense under subsection (a) and inflicts serious bodily injury to any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive officer as named in G.S. 147-3(c) shall be punished as a Class F felon."

-----THREATS AGAINST OFFICERS

Sec. 1126. G.S. 14-16.7 reads as rewritten:

"§ *14-16.7. Threats against executive or legislative officers.*

(a) Any person who knowingly and willfully makes any threat to inflict serious bodily injury upon or to kill any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive official as named in G.S. 147-3(c), shall be guilty of a felony and shall be punished as a Class ~~J~~ I felon.

(b) Any person who knowingly and willfully deposits for conveyance in the mail any letter, writing, or other document containing a threat to inflict serious bodily injury upon or to kill any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive official named in G.S. 147-3(c), shall be guilty of a felony and shall be punished as a Class ~~J~~ I felon."

-----MURDER IN THE FIRST AND SECOND DEGREE

Sec. 1127. G.S. 14-17 reads as rewritten:

"§ *14-17. Murder in the first and second degree defined; punishment.*

A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 17 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life. Provided, however, any person under the age of 17 who commits murder in the first degree while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder shall be punished with death or imprisonment in the State's prison for life as the court shall determine pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(a)4., when the ingestion of such substance causes the death of the user, shall be deemed murder in the second

degree, and any person who commits such murder shall be punished as a Class ~~C~~ B felon."

-----PUNISHMENT FOR MANSLAUGHTER

Sec. 1128. G.S. 14-18 reads as rewritten:

"*§ 14-18. Punishment for manslaughter.*

Voluntary manslaughter shall be punishable as a Class ~~F~~ E felony, and involuntary manslaughter shall be punishable as a Class ~~H~~ F felony."

-----KILLING ADVERSARY IN DUEL

Sec. 1129. G.S. 14-20 reads as rewritten:

"*§ 14-20. Killing adversary in duel; aiders and abettors declared accessories.*

If any person fight a duel in consequence of a challenge sent or received, and either of the parties shall be killed, then the survivor, on conviction thereof, shall be punished as a Class ~~C~~ B felon. All their aiders and abettors shall be considered accessories before the fact.

Any person charged with killing an adversary in a duel may enter a plea of guilty to said charge in the same way and manner and under the conditions and restrictions set forth in G.S. 15-162.1 relating to pleas of guilty for first degree murder, first degree burglary, arson and rape."

-----SECOND-DEGREE RAPE

Sec. 1130. G.S. 14-27.3(b) reads as rewritten:

"(b) Any person who commits the offense defined in this section is guilty of a Class ~~D~~ C felony."

-----SECOND-DEGREE SEXUAL OFFENSE

Sec. 1131. G.S. 14-27.5(b) reads as rewritten:

"(b) Any person who commits the offense defined in this section is guilty of a Class ~~D~~ C felony."

-----INTERCOURSE AND SEX OFFENSES/CERTAIN VICTIMS

Sec. 1132. G.S. 14-27.7 reads as rewritten:

"*§ 14-27.7. Intercourse and sexual offenses with certain victims; consent no defense.*

If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, or if a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class ~~G~~ E felony. Consent is not a defense to a charge under this section."

-----MALICIOUS CASTRATION

Sec. 1133. G.S. 14-28 reads as rewritten:

"§ *14-28. Malicious castration.*

If any person, of malice aforethought, shall unlawfully castrate any other person, or cut off, maim or disfigure any of the privy members of any person, with intent to murder, maim, disfigure, disable or render impotent such person, the person so offending shall be punished as a Class ~~D~~ C felon."

-----CASTRATION OR OTHER MAIMING WITHOUT MALICE

Sec. 1134. G.S. 14-29 reads as rewritten:

"§ *14-29. Castration or other maiming without malice aforethought.*

If any person shall, on purpose and unlawfully, but without malice aforethought, cut, or slit the nose, bite or cut off the nose, or a lip or an ear, or disable any limb or member of any other person, or castrate any other person, or cut off, maim or disfigure any of the privy members of any other person, with intent to kill, maim, disfigure, disable or render impotent such person, the person so offending shall be punished as a Class ~~H~~ E felon."

-----MALICIOUS MAIMING

Sec. 1135. G.S. 14-30 reads as rewritten:

"§ *14-30. Malicious maiming.*

If any person shall, of malice aforethought, unlawfully cut out or disable the tongue or put out an eye of any other person, with intent to murder, maim or disfigure, the person so offending, his counselors, abettors and aiders, knowing of and privy to the offense, shall be punished as a Class ~~H~~ C felon."

-----MALICIOUS THROWING OF CORROSIVE ACID

Sec. 1136. G.S. 14-30.1 reads as rewritten:

"§ *14-30.1. Malicious throwing of corrosive acid or alkali.*

If any person shall, of malice aforethought, knowingly and willfully throw or cause to be thrown upon another person any corrosive acid or alkali with intent to murder, maim or disfigure and inflicts serious injury not resulting in death, he shall be punished as a Class ~~H~~ E felon."

-----MALICIOUSLY ASSAULTING IN A SECRET MANNER

Sec. 1137. G.S. 14-31 reads as rewritten:

"§ *14-31. Maliciously assaulting in a secret manner.*

If any person shall in a secret manner maliciously commit an assault and battery with any deadly weapon upon another by waylaying or otherwise, with intent to kill such other person, notwithstanding the person so assaulted may have been conscious of the presence of his adversary, he shall be punished as a Class ~~F~~ E felon."

-----FELONIOUS ASSAULT WITH DEADLY WEAPON/ INTENT TO KILL

Sec. 1138. G.S. 14-32 reads as rewritten:

"§ *14-32. Felonious assault with deadly weapon with intent to kill or inflicting serious injury; punishments.*

(a) Any person who assaults another person with a deadly weapon with intent to kill and inflicts serious injury shall be punished as a Class ~~F~~ C felon.

(b) Any person who assaults another person with a deadly weapon and inflicts serious injury shall be punished as a Class ~~H~~ E felon.

(c) Any person who assaults another person with a deadly weapon with intent to kill shall be punished as a Class ~~H~~ E felon."

-----ASSAULTS ON HANDICAPPED PERSONS; PUNISHMENTS

Sec. 1139. G.S. 14-32.1 reads as rewritten:

"§ *14-32.1. Assaults on handicapped persons; punishments.*

(a) For purposes of this section, a 'handicapped person' is a person who has:

(1) A physical or mental disability, such as decreased use of arms or legs, blindness, deafness, mental retardation or mental illness; or

(2) Infirmity

which would substantially impair that person's ability to defend himself.

(b) Any person who assaults a handicapped person with a deadly weapon with intent to kill and inflicts serious injury is guilty of a Class ~~F~~ C felony.

(c) Any person who assaults a handicapped person with a deadly weapon and inflicts serious injury is guilty of a Class ~~G~~ E felony.

(d) Any person who assaults a handicapped person with a deadly weapon with intent to kill is guilty of a Class ~~G~~ E felony.

(e) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any aggravated assault or assault and battery on a handicapped person is guilty of a Class ~~I~~ F felony. A person commits an aggravated assault or assault and battery upon a handicapped person if, in the course of the assault or assault and battery, that person:

(1) Uses a deadly weapon or other means of force likely to inflict serious injury or serious damage to a handicapped person; or

(2) Inflicts serious injury or serious damage to a handicapped person; or

(3) Intends to kill a handicapped person.

(f) Any person who commits a simple assault or battery upon a handicapped person is guilty of a misdemeanor punishable by a fine, imprisonment for not more than one year, or both."

-----PATIENT ABUSE AND NEGLECT

Sec. 1140. G.S. 14-32.2(b) reads as rewritten:

"(b) Unless the conduct is prohibited by some other provision of law providing for greater punishment.

(1) Any person who violates subsection (a) above is guilty of a Class C felony where intentional conduct proximately causes the death of the patient or resident;

(2) Any person who violates subsection (a) above is guilty of a Class ~~G~~ E felony where culpably negligent conduct proximately causes the death of the patient or resident;

(3) Any person who violates subsection (a) above is guilty of a Class ~~H~~ F felony where such conduct proximately causes serious bodily injury to the patient or resident."

-----DISCHARGING CERTAIN WEAPONS INTO OCCUPIED PROPERTY

Sec. 1141. G.S. 14-34.1 reads as rewritten:

"*§ 14-34.1. Discharging certain barreled weapons or a firearm into occupied property.*

Any person who willfully or wantonly discharges or attempts to discharge:

(1) Any barreled weapon capable of discharging shot, bullets, pellets, or other missiles at a muzzle velocity of at least 600 feet per second; or

(2) A firearm into any building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection, or enclosure while it is occupied is guilty of a Class ~~H~~ E felony."

-----ASSAULT WITH A FIREARM OR DEADLY WEAPON

Sec. 1142. G.S. 14-34.2 reads as rewritten:

"*§ 14-34.2. Assault with a firearm or other deadly weapon upon governmental officers or employees.*

Any person who commits an assault with a firearm or any other deadly weapon upon an officer or employee of the State or of any political subdivision of the State in the performance of his duties shall be guilty of a Class ~~I~~ F felony."

-----KIDNAPPING.

Sec. 1143. G.S. 14-39(b) reads as rewritten:

"(b) There shall be two degrees of kidnapping as defined by subsection (a). If the person kidnapped either was not released by the defendant in a safe place or had been seriously injured or sexually assaulted, the offense is kidnapping in the first degree and is punishable as a Class ~~D~~ C felony. If the person kidnapped was released in a safe place by the defendant and had not been seriously injured or sexually assaulted, the offense is kidnapping in the second degree and is punishable as a Class E felony."

-----ABDUCTION OF CHILDREN

Sec. 1144. G.S. 14-41 reads as rewritten:

"§ *14-41. Abduction of children.*

If anyone shall abduct or by any means induce any child under the age of fourteen years, who shall reside with its father, mother, uncle, aunt, brother or elder sister, or shall reside at a school, or be an orphan and reside with a guardian, to leave such person or school, he shall be punished as a Class ~~G~~ F felon."

-----ABDUCTION OF MARRIED WOMEN

Sec. 1145. G.S. 14-43 reads as rewritten:

"§ *14-43. Abduction of married women.*

If any male person shall abduct or elope with the wife of another, he shall be punished as a Class ~~H~~ I felon: Provided, that the woman, since her marriage, has been an innocent and virtuous woman: Provided further, that no conviction shall be had upon the unsupported testimony of any such married woman."

-----INVOLUNTARY SERVITUDE

Sec. 1146. G.S. 14-43.2(b) reads as rewritten:

"(b) It is unlawful to knowingly and willfully:

(1) Hold another in involuntary servitude, or

(2) Entice, persuade or induce another to go to another place with the intent that the other be held in involuntary servitude.

A person violating this subsection shall be guilty of a Class ~~I~~ F felony."

-----FELONIOUS RESTRAINT

Sec. 1147. G.S. 14-43.3 reads as rewritten:

"§ *14-43.3. Felonious restraint.*

A person commits the offense of felonious restraint if he unlawfully restrains another person without that person's consent, or the consent of the person's parent or legal custodian if the person is less than 16 years old, and moves the person from the place of the initial restraint by transporting him in a motor vehicle or other conveyance. Violation of this section is a Class ~~J~~ F felony. Felonious restraint is considered a lesser included offense of kidnapping."

-----CONCEALING BIRTH OF CHILD

Sec. 1148. G.S. 14-46 reads as rewritten:

"§ *14-46. Concealing birth of child.*

If any person shall, by secretly burying or otherwise disposing of the dead body of a newborn child, endeavor to conceal the birth of such child, such person shall be punished as a Class ~~H~~ I felon. Any person aiding, counseling or abetting any other person in concealing the birth of a child in violation of this statute shall be guilty of a misdemeanor."

-----MALICIOUS USE OF EXPLOSIVE OR INCENDIARY

Sec. 1149. G.S. 14-49 reads as rewritten:

"§ *14-49. Malicious use of explosive or incendiary; ~~attempt;~~ punishment.*

(a) Any person who willfully and maliciously injures ~~or attempts to injure~~ another by the use of any explosive or incendiary device or material is guilty of a Class D felony.

(b) Any person who willfully and maliciously damages ~~or attempts to damage~~ any real or personal property of any kind or nature belonging to another by the use of any explosive or incendiary device or material is guilty of a Class G felony.

~~(c) Any person who violates any provision of this section shall be punished as a Class E felon.~~"

-----MALICIOUS DAMAGE OF OCCUPIED PROPERTY BY USE OF EXPLOSIVE

Sec. 1150. G.S. 14-49.1 reads as rewritten:

"§ *14-49.1. Malicious damage of occupied property by use of explosive or incendiary; ~~attempt;~~ punishment.*

Any person who willfully and maliciously damages ~~or attempts to damage~~ any real or personal property of any kind or nature, being at the time occupied by another, by the use of any explosive or incendiary device or material is guilty of a felony punishable as a Class ~~C~~ D felony."

-----PUNISHMENT FOR BURGLARY

Sec. 1151. G.S. 14-52 reads as rewritten:

"§ *14-52. Punishment for burglary.*

Burglary in the first degree shall be punishable as a Class ~~C~~ D felony, and burglary in the second degree shall be punishable as a Class ~~D~~ G felony. ~~Notwithstanding any other provision of law, with the exception of persons sentenced as committed youthful offenders, a person convicted of a burglary in the first or second degree shall serve a term of not less than seven years in prison, excluding gain time granted under G.S. 148-13. A person convicted of a burglary in the first or second degree shall receive a sentence of at least 14 years in the State's prison and shall be entitled to credit for good behavior under G.S. 15A-1340.7. The sentencing judge may not suspend the sentence and may not place the person sentenced on probation. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder.~~"

-----PREPARATION TO COMMIT BURGLARY

Sec. 1152. G.S. 14-55 reads as rewritten:

"§ *14-55. Preparation to commit burglary or other housebreakings.*

If any person shall be found armed with any dangerous or offensive weapon, with the intent to break or enter a dwelling, or other building

whatsoever, and to commit any felony or larceny therein; or shall be found having in his possession, without lawful excuse, any picklock, key, bit, or other implement of housebreaking; or shall be found in any such building, with intent to commit any felony or larceny therein, such person shall be punished as a Class ~~H~~ I felon."

-----BREAKING INTO OR OPENING COIN MACHINES

Sec. 1153. G.S. 14-56.1 reads as rewritten:

"§ *14-56.1. Breaking into or forcibly opening coin- or currency-operated machines.*

Any person who forcibly breaks into, or by the unauthorized use of a key or other instrument opens, any coin- or currency-operated machine with intent to steal any property or moneys therein shall be guilty of a misdemeanor punishable by fine or imprisonment or both in the discretion of the court, but if such person has previously been convicted of violating this section, such person shall be punished as a Class ~~H~~ I felon. The term 'coin- or currency-operated machine' shall mean any coin- or currency-operated vending machine, pay telephone, telephone coin or currency receptacle, or other coin- or currency-activated machine or device.

There shall be posted on the machines referred to in G.S. 14-56.1 a decal stating that it is a crime to break into vending machines, and that a second offense is a felony. The absence of such a decal is not a defense to a prosecution for the crime described in this section."

-----BREAKING INTO PAPER CURRENCY MACHINES

Sec. 1154. G.S. 14-56.3 reads as rewritten:

"§ *14-56.3. Breaking into paper currency machines.*

Any person, who with intent to steal any moneys therein forcibly breaks into any vending or dispensing machine or device which is operated or activated by the use, deposit or insertion of United States paper currency, shall be guilty of a misdemeanor, but if such person has previously been convicted of violating this section, such person shall be punished as a Class ~~H~~ I felon.

There shall be posted on the machines referred to in ~~G.S. 14-56.3~~ this section a decal stating that it is a crime to break into paper currency machines. The absence of such a decal is not a defense to a prosecution for the crime described in this section."

-----BURGLARY WITH EXPLOSIVES

Sec. 1155. G.S. 14-57 reads as rewritten:

"§ *14-57. Burglary with explosives.*

Any person who, with intent to commit any felony or larceny therein, breaks and enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe, or other secure place by use of nitroglycerine, dynamite, gunpowder, or any other explosive, or acetylene torch, shall be

deemed guilty of burglary with explosives. Any person convicted under this section shall be punished as a Class ~~E~~ D felon."

-----PUNISHMENT FOR ARSON

Sec. 1156. G.S. 14-58 reads as rewritten:

"*§ 14-58. Punishment for arson.*

There shall be two degrees of arson as defined at the common law. If the dwelling burned was occupied at the time of the burning, the offense is arson in the first degree and is punishable as a Class ~~C~~ D felony. If the dwelling burned was unoccupied at the time of the burning, the offense is arson in the second degree and is punishable as a Class ~~D~~ G felony."

-----BURNING OF CERTAIN PUBLIC BUILDINGS

Sec. 1157. G.S. 14-59 reads as rewritten:

"*§ 14-59. Burning of certain public buildings.*

If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning of, the State Capitol, the Legislative Building, the Justice Building or any building owned or occupied by the State or any of its agencies, institutions or subdivisions or by any county, incorporated city or town or other governmental or quasi-governmental entity, he shall be punished as a Class ~~E~~ F felon."

-----BURNING OF SCHOOLHOUSES

Sec. 1158. G.S. 14-60 reads as rewritten:

"*§ 14-60. Burning of schoolhouses or buildings of educational institutions.*

If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning of, any schoolhouse or building owned, leased or used by any public or private school, college or educational institution, he shall be punished as a Class ~~E~~ F felon."

-----BURNING OF CERTAIN BRIDGES AND BUILDINGS

Sec. 1159. G.S. 14-61 reads as rewritten:

"*§ 14-61. Burning of certain bridges and buildings.*

If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of, any public bridge, or private toll bridge, or the bridge of any incorporated company, or any fire-engine house or rescue-squad building, or any house belonging to an incorporated company or unincorporated association and used in the business of such company or association, he shall be punished as a Class ~~E~~ F felon."

-----BURNING OF CHURCHES AND CERTAIN OTHER BUILDINGS

Sec. 1160. G.S. 14-62 reads as rewritten:

"*§ 14-62. Burning of churches and certain other buildings.*

If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of, any uninhabited house, any church, chapel or meetinghouse, or any stable, coach house, outhouse, warehouse, office, shop, mill, barn or granary, or any building, structure or erection used or intended to be used in carrying on any trade or manufacture, or any branch thereof, whether the same or any of them respectively shall then be in the possession of the offender, or in the possession of any other person, he shall be punished as a Class ~~E~~ F felon."

-----BURNING OF BUILDING IN PROCESS OF CONSTRUCTION

Sec. 1161. G.S. 14-62.1 reads as rewritten:

"§ *14-62.1. Burning of building or structure in process of construction.*

If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of, any building or structure in the process of construction for use or intended to be used as a dwelling house or in carrying on any trade or manufacture, or otherwise, whether the same or any of them respectively shall then be in the possession of the offender, or in the possession of any other person, he shall be punished as a Class ~~E~~ H felon."

Sec. 1192.1. G.S. 14-67.1 reads as rewritten:

"§ *14-67.1. Burning ~~or attempting to burn~~ other buildings.*

If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning ~~of, or attempt to burn,~~ of any building or other structure of any type not otherwise covered by the provisions of this Article, he shall be punished as a Class H felon."

-----MAKING A FALSE REPORT CONCERNING DESTRUCTIVE DEVICE

Sec. 1162. G.S. 14-69.1(b) reads as rewritten:

"(b) If any person shall, by any means of communication to any person or group of persons, make a report, knowing or having reason to know the same to be false, that there is located in any hospital facility as defined in G.S. 131E-6, which includes a health clinic facility, any device designed to destroy or damage the hospital or health clinic facility by explosion, blasting, or burning, he shall, upon a first conviction, be guilty of a misdemeanor, punishable by a minimum of 100 hours of mandatory community service. Upon a second or subsequent conviction under this subsection, he shall be guilty of a Class I ~~felony and shall be fined or imprisoned or both in the discretion of the court,~~ felony."

-----DISTINCTIONS BETWEEN GRAND AND PETIT LARCENY ABOLISHED

Sec. 1163. G.S. 14-70 reads as rewritten:

"§ 14-70. Distinctions between grand and petit larceny abolished; punishment; accessories to larceny.

All distinctions between petit and grand larceny are abolished. Unless otherwise provided by statute, larceny is a Class H felony ~~punishable under G.S. 14-2~~ and is subject to the same rules of criminal procedure and principles of law as to accessories before and after the fact as other felonies."

-----RECEIVING STOLEN GOODS

Sec. 1164. G.S. 14-71 reads as rewritten:

"§ 14-71. Receiving stolen goods.

If any person shall receive any chattel, property, money, valuable security or other thing whatsoever, the stealing or taking whereof amounts to larceny or a felony, either at common law or by virtue of any statute made or hereafter to be made, such person knowing or having reasonable grounds to believe the same to have been feloniously stolen or taken, he shall be guilty of a ~~criminal offense,~~ Class H felony, and may be indicted and convicted, whether the felon stealing and taking such chattels, property, money, valuable security or other thing, shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any such receiver may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county where he actually received such chattel, money, security, or other thing; and such receiver shall be punished as one convicted of larceny."

-----POSSESSING STOLEN GOODS

Sec. 1165. G.S. 14-71.1 reads as rewritten:

"§ 14-71.1. Possessing stolen goods.

If any person shall possess any chattel, property, money, valuable security or other thing whatsoever, the stealing or taking whereof amounts to larceny or a felony, either at common law or by virtue of any statute made or hereafter to be made, such person knowing or having reasonable grounds to believe the same to have been feloniously stolen or taken, he shall be guilty of a ~~criminal offense,~~ Class H felony, and may be indicted and convicted, whether the felon stealing and taking such chattels, property, money, valuable security or other thing shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any such possessor may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such possessor may be dealt with, indicted, tried and punished in the

county where he actually possessed such chattel, money, security, or other thing; and such possessor shall be punished as one convicted of larceny."

-----UNAUTHORIZED USE OF AN AIRCRAFT

Sec. 1166. G.S. 14-72.2(b) reads as rewritten:

"(b) Unauthorized use of an aircraft is a Class ~~I~~ H felony. All other unauthorized use of a motor-propelled conveyance is a misdemeanor punishable by a fine, imprisonment not to exceed two years, or both, in the discretion of the court."

-----LARCENY OF CHOSE IN ACTION

Sec. 1167. G.S. 14-75 reads as rewritten:

"§ *14-75. Larceny of chose in action.*

If any person shall feloniously steal, take and carry away, or take by robbery, any bank note, check or other order for the payment of money issued by or drawn on any bank or other society or corporation within this State or within any of the United States, or any treasury warrant, debenture, certificate of stock or other public security, or certificate of stock in any corporation, or any order, bill of exchange, bond, promissory note or other obligation, either for the payment of money or for the delivery of specific articles, being the property of any other person, or of any corporation (notwithstanding any of the said particulars may be termed in law a chose in action), ~~such felonious stealing, taking and carrying away, or taking by robbery, shall be a crime of the same nature and degree and in the same manner as it would have been if the offender had feloniously stolen, or taken by robbery money, goods or property of the same value, and the offender for every such offense shall suffer the same punishment and be subject to the same pains, penalties and disabilities as he should or might have suffered if he had feloniously stolen or taken by robbery money, goods or other property of such value.~~ that person is guilty of a Class H felony."

-----LARCENY OF UNGATHERED CROPS

Sec. 1168. G.S. 14-78 reads as rewritten:

"§ *14-78. Larceny of ungathered crops.*

If any person shall steal or feloniously take and carry away any maize, corn, wheat, rice or other grain, or any cotton, tobacco, potatoes, peanuts, pulse, fruit, vegetable or other product cultivated for food or market, growing, standing or remaining ungathered in any field or ground, ~~he shall be guilty of larceny, and shall be punished accordingly, such punishment to include a fine of not less than fifty dollars ($50.00) nor more than two hundred fifty dollars ($250.00).~~ that person is guilty of a Class H felony."

-----LARCENY OF GINSENG

Sec. 1169. G.S. 14-79 reads as rewritten:

"§ *14-79. Larceny of ginseng.*

If any person shall take and carry away, or shall aid in taking or carrying away, any ginseng growing upon the lands of another person, with intent to steal the same, he shall be punished as a Class ~~I~~ H felon: Provided, that such ginseng, at the time the same is taken, shall be in beds and the land upon which such beds are located shall be surrounded by a lawful fence."

-----LARCENY OF WOOD AND PROPERTY FROM LAND

Sec. 1170. G.S. 14-80 reads as rewritten:

"§ *14-80. Larceny of wood and other property from land.*

If any person, not being the present owner or bona fide claimant thereof, shall willfully and unlawfully enter upon the lands of another, carrying off or being engaged in carrying off any wood or other kind of property whatsoever, growing or being thereon, the same being the property of the owner of the premises, or under his control, keeping or care, such person shall, if the act be done with felonious intent, be guilty of ~~larceny, and punished as for that offense;~~ a Class H felony; and if not done with such intent, he shall be guilty of a misdemeanor."

-----LARCENY OF DOGS

Sec. 1171. G.S. 14-81(a1) reads as rewritten:

"(a1) Larceny of a dog is a Class ~~J~~ I felony."

-----PURSUING OR INJURING LIVESTOCK WITH INTENT TO STEAL

Sec. 1172. G.S. 14-85 reads as rewritten:

"§ *14-85. Pursuing or injuring livestock with intent to steal.*

If any person shall pursue, kill or wound any horse, mule, ass, jennet, cattle, hog, sheep or goat, the property of another, with the intent unlawfully and feloniously to convert the same to his own use, he shall be guilty of a Class H felony, and shall be punishable, in all respects, as if convicted of larceny, though such animal may not have come into the actual possession of the person so offending."

-----ROBBERY WITH FIREARMS OR OTHER DANGEROUS WEAPONS

Sec. 1173. G.S. 14-87(d) is repealed.

-----PUNISHMENT FOR COMMON-LAW ROBBERY

Sec. 1174. G.S. 14-87.1 reads as rewritten:

"§ *14-87.1. Punishment for common-law robbery ~~and attempted common-law robbery~~.*

Robbery ~~and attempted robbery~~ as defined at common law, other than robbery with a firearm or other dangerous weapon as defined by G.S. 14-87, shall be punishable as a Class ~~H~~ G felony."

-----TRAIN ROBBERY

Sec. 1175. G.S. 14-88 reads as rewritten:

"§ *14-88. Train robbery.*

If any person shall enter upon any locomotive engine or car on any railroad in this State, and by threats, the exhibition of deadly weapons or the discharge of any pistol or gun, in or near any such engine or car, shall induce or compel any person on such engine or car to submit and deliver up, or allow to be taken therefrom, or from him, anything of value, he shall be guilty of train robbery, and on conviction thereof shall be punished as a Class ~~F~~ D felon."

-----SAFECRACKING

Sec. 1176. G.S. 14-89.1(c) reads as rewritten:

"(c) Safecracking shall be punishable as a Class ~~H~~ I felony."

-----EMBEZZLEMENT OF FUNDS BY PUBLIC OFFICERS AND TRUSTEES

Sec. 1177. G.S. 14-92 reads as rewritten:

"§ *14-92. Embezzlement of funds by public officers and trustees.*

If an officer, agent, or employee of an entity listed below, or a person having or holding money or property in trust for one of the listed entities, shall embezzle or otherwise willfully and corruptly use or misapply the same for any purpose other than that for which such moneys or property is held, such person shall be punished as a Class ~~H~~ F felon. If any clerk of the superior court or any sheriff, treasurer, register of deeds or other public officer of any county, unit or agency of local government, or local board of education shall embezzle or wrongfully convert to his own use, or corruptly use, or shall misapply for any purpose other than that for which the same are held, or shall fail to pay over and deliver to the proper persons entitled to receive the same when lawfully required so to do, any moneys, funds, securities or other property which such officer shall have received by virtue or color of his office in trust for any person or corporation, such officer shall be punished as a Class ~~H~~ F felon. The provisions of this section shall apply to all persons who shall go out of office and fail or neglect to account to or deliver over to their successors in office or other persons lawfully entitled to receive the same all such moneys, funds and securities or property aforesaid. The following entities are protected by this section: a county, a city or other unit or agency of local government, a local board of education, and a penal, charitable, religious, or educational institution."

-----EMBEZZLEMENT BY TREASURERS OF CHARITIES

Sec. 1178. G.S. 14-93 reads as rewritten:

"§ *14-93. Embezzlement by treasurers of charitable and religious organizations.*

If any treasurer or other financial officer of any benevolent or religious institution, society or congregation shall lend any of the moneys coming into his hands to any other person or association

without the consent of the institution, association or congregation to whom such moneys belong; or, if he shall fail to account for such moneys when called on, he shall be guilty of a ~~misdemeanor, and shall be punished by fine or imprisonment, or both, in the discretion of the court.~~ Class H felony."

-----APPROPRIATION OF PARTNERSHIP FUNDS BY PARTNER

Sec. 1179. G.S. 14-97 reads as rewritten:

"§ *14-97. Appropriation of partnership funds by partner to personal use.*

Any person engaged in a partnership business in the State of North Carolina who shall, without the knowledge and consent of his copartner or copartners, take funds belonging to the partnership business and appropriate the same to his own personal use with the fraudulent intent of depriving his copartners of the use thereof, shall be guilty of a ~~misdemeanor. Any person or persons violating the provisions of this section, upon conviction, shall be punished as is now done in cases of misdemeanor.~~ Class H felony."

-----EMBEZZLEMENT OF TAXES BY OFFICERS

Sec. 1180. G.S. 14-99 reads as rewritten:

"§ *14-99. Embezzlement of taxes by officers.*

If any officer appropriates to his own use the State, county, school, city or town taxes, he shall be guilty of embezzlement, and shall be punished as a Class ~~I~~ F felon."

-----OBTAINING SIGNATURES BY FALSE PRETENSES

Sec. 1181. G.S. 14-101 reads as rewritten:

"§ *14-101. Obtaining signatures by false pretenses.*

If any person, with intent to defraud or cheat another, shall designedly, by color of any false token or writing, or by any other false pretense, obtain the signature of any person to any written instrument, the false making of which would be punishable as forgery, he shall be punished as a Class ~~I~~ H felon."

-----WORTHLESS CHECKS

Sec. 1182. G.S. 14-107 reads as rewritten:

"§ *14-107. Worthless checks.*

It shall be unlawful for any person, firm or corporation, to draw, make, utter or issue and deliver to another, any check or draft on any bank or depository, for the payment of money or its equivalent, knowing at the time of the making, drawing, uttering, issuing and delivering such check or draft as aforesaid, that the maker or drawer thereof has not sufficient funds on deposit in or credit with such bank or depository with which to pay the same upon presentation.

It shall be unlawful for any person, firm or corporation to solicit or to aid and abet any other person, firm or corporation to draw, make, utter or issue and deliver to any person, firm or corporation, any check or draft on any bank or depository for the payment of money or

its equivalent, being informed, knowing or having reasonable grounds for believing at the time of the soliciting or the aiding and abetting that the maker or the drawer of the check or draft has not sufficient funds on deposit in, or credit with, such bank or depository with which to pay the same upon presentation.

The word 'credit' as used herein shall be construed to mean an arrangement or understanding with the bank or depository for the payment of any such check or draft.

A violation of this section shall be a Class J I felony if the amount of the check or draft is more than two thousand dollars ($2,000). If the amount of the check or draft is two thousand dollars ($2,000) or less, a violation of this section shall be a misdemeanor punishable as follows:

(1) If the amount of the check or draft is not over one hundred dollars ($100.00), the punishment shall be by a fine not to exceed fifty dollars ($50.00) or imprisonment for not more than 30 days. Provided, however, if such person has been convicted three times of violating G.S. 14-107, he shall on the fourth and all subsequent convictions (i) be punished in the discretion of the district or superior court as for a general misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

(2) If the amount of the check or draft is over one hundred dollars ($100.00), the punishment shall be by a fine not to exceed two hundred fifty dollars ($250.00) or imprisonment for not more than six months, or both. Provided, however, if such person has been convicted three times of violating G.S. 14-107, he shall on the fourth and all subsequent convictions (i) be punished in the discretion of the district or superior court as for a general misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

(3) If the check or draft is drawn upon a nonexistent account, the punishment shall be by a fine not to exceed one thousand dollars ($1,000) or imprisonment for not more than two years, or both.

(4) If the check or draft is drawn upon an account that has been closed by the drawer prior to time the check is drawn, the punishment shall be a fine not to exceed four hundred dollars ($400.00) or imprisonment for not more than five months or both.

In deciding to impose any sentence other than an active prison sentence, the sentencing judge shall consider and may require, in accordance with the provisions of G.S. 15A-1343, restitution to the victim for the amount of the check or draft and each prosecuting witness (whether or not under subpoena) shall be entitled to a witness fee as provided by G.S. 7A-314 which shall be taxed as part of the cost and assessed to the defendant."

-----FINANCIAL TRANSACTION CARDS

Sec. 1183. G.S. 14-113.17(b) reads as rewritten:

"(b) A crime punishable under this ~~subsection~~ Article is punishable as a Class ~~J~~ I felony."

-----EXTORTION

Sec. 1184. G.S. 14-118.4 reads as rewritten:

"*§ 14-118.4. Extortion.*

Any person who threatens or communicates a threat or threats to another with the intention thereby wrongfully to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and such person shall be punished as a Class ~~H~~ F felon."

-----UTTERING FORGED PAPER OR INSTRUMENT

Sec. 1185. G.S. 14-120 reads as rewritten:

"*§ 14-120. Uttering forged paper or instrument containing a forged endorsement.*

If any person, directly or indirectly, whether for the sake of gain or with intent to defraud or injure any other person, shall utter or publish any such false, forged or counterfeited instrument as is mentioned in G.S. 14-119, or shall pass or deliver, or attempt to pass or deliver, any of them to another person (knowing the same to be falsely forged or counterfeited) the person so offending shall be punished as a Class I felon. If any person, directly or indirectly, whether for the sake of gain or with intent to defraud or injure any other person, shall falsely make, forge or counterfeit any endorsement on any instrument described in the preceding section, whether such instrument be genuine or false, or shall knowingly utter or publish any such instrument containing a false, forged or counterfeited endorsement or, knowing the same to be falsely endorsed, shall pass or deliver or attempt to pass or deliver any such instrument containing a forged endorsement to another person, the person so offending shall be guilty of a ~~felony and punishable by the same punishment provided in the preceding sentence.~~ Class I felony."

-----SELLING OF CERTAIN FORGED SECURITIES

Sec. 1186. G.S. 14-121 reads as rewritten:

"*§ 14-121. Selling of certain forged securities.*

If any person shall sell, by delivery, endorsement or otherwise, to any other person, any judgment for the recovery of money purporting

to have been rendered by a magistrate, or any bond, promissory note, bill of exchange, order, draft or liquidated account purporting to be signed by the debtor (knowing the same to be forged), the person so offending shall be punished as a Class ~~I~~ H felon."

-----FORGERY OF DEEDS AND WILLS

Sec. 1187. G.S. 14-122 reads as rewritten:

"*§ 14-122. Forgery of deeds, wills and certain other instruments.*

If any person, of his own head and imagination, or by false conspiracy or fraud with others, shall wittingly and falsely forge and make, or shall cause or wittingly assent to the forging or making of, or shall show forth in evidence, knowing the same to be forged, any deed, lease or will, or any bond, writing obligatory, bill of exchange, promissory note, endorsement or assignment thereof; or any acquittance or receipt for money or goods; or any receipt or release for any bond, note, bill or any other security for the payment of money; or any order for the payment of money or delivery of goods, with intent, in any of said instances, to defraud any person or corporation, and thereof shall be duly convicted, the person so offending shall be punished as a Class ~~I~~ H felon."

-----SETTING FIRE TO GRASS AND BRUSHLANDS AND WOODLANDS

Sec. 1188. G.S. 14-136 reads as rewritten:

"*§ 14-136. Setting fire to grass and brushlands and woodlands.*

If any person shall intentionally set fire to any grassland, brushland or woodland, except it be his own property, or in that case without first giving notice to all persons owning or in charge of lands adjoining the land intended to be fired, and without also taking care to watch such fire while burning and to extinguish it before it shall reach any lands near to or adjoining the lands so fired, he shall for every such offense be guilty of a misdemeanor and shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or imprisoned for a period of not less than 60 days nor more than four months for the first offense, and for a second or any subsequent similar offense shall be imprisoned not less than four months nor more than one year. If intent to damage the property of another shall be shown, said person shall~~, for a first offense,~~ be punished as a Class I felon~~; and for a second and subsequent offenses said person shall be punished as a Class H felon~~. This section shall not prevent an action for the damages sustained by the owner of any property from such fires. For the purposes of this section, the term 'woodland' is to be taken to include all forest areas, both timber and cutover land, and all second-growth stands on areas that have at one time been cultivated. Any person who shall furnish to the State, evidence sufficient for the conviction of a violation of this section shall

receive the sum of five hundred dollars ($500.00) to be paid from the State Fire Suppression Fund."

-----CONTAMINATING A PUBLIC WATER SYSTEM

Sec. 1189. G.S. 14-159.1(b) reads as rewritten:

"(b) Any person who commits the offense defined in this section is guilty of a Class ~~I~~ C felony."

-----INTERFERENCE WITH ANIMAL RESEARCH

Sec. 1190. G.S. 14-159.2(c) reads as rewritten:

"(c) Any person who commits an offense under subsection (a) of this section that involves the release from any enclosure or restraining device of any animal having an infectious disease shall be guilty of a Class ~~J~~ I felony."

-----CRIME AGAINST NATURE

Sec. 1191. G.S. 14-177 reads as rewritten:

"§ *14-177. Crime against nature.*

If any person shall commit the crime against nature, with mankind or beast, he shall be punished as a Class ~~H~~ I felon."

-----INCEST BETWEEN CERTAIN NEAR RELATIVES

Sec. 1192. G.S. 14-178 reads as rewritten:

"§ *14-178. Incest between certain near relatives.*

The parties shall be guilty of a felony in all cases of carnal intercourse between (i) grandparent and grandchild, (ii) parent and child or stepchild or legally adopted child, or (iii) brother and sister of the half or whole blood. Every such offense is punishable as a Class ~~G~~ F felony."

-----BIGAMY

Sec. 1193. G.S. 14-183 reads as rewritten:

"§ *14-183. Bigamy.*

If any person, being married, shall marry any other person during the life of the former husband or wife, every such offender, and every person counseling, aiding or abetting such offender, shall be punished as a Class ~~H~~ I felon. Any such offense may be dealt with, tried, determined and punished in the county where the offender shall be apprehended, or be in custody, as if the offense had been actually committed in that county. If any person, being married, shall contract a marriage with any other person outside of this State, which marriage would be punishable as bigamous if contracted within this State, and shall thereafter cohabit with such person in this State, he shall be guilty of a felony and shall be punished as in cases of bigamy. Nothing contained in this section shall extend to any person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to have been living within that time; nor to any person who at the time of such second

marriage shall have been lawfully divorced from the bond of the first marriage; nor to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction."

-----OBSCENE LITERATURE AND EXHIBITIONS

Sec. 1194. G.S. 14-190.1(g) reads as rewritten:

"(g) Violation of this section is a Class ~~J~~ I felony."

-----DISSEMINATION TO MINORS UNDER THE AGE OF 13 YEARS

Sec. 1195. G.S. 14-190.8 reads as rewritten:

"*§ 14-190.8. Dissemination to minors under the age of 13 years.*

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 13 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be punished as a Class ~~H~~ I felon."

-----FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR

Sec. 1196. G.S. 14-190.16(d) reads as rewritten:

"(d) Punishment and Sentencing. -- Violation of this section is a Class ~~G~~ E felony. ~~Notwithstanding any other provision of law, except a person sentenced as a committed youthful offender, a person convicted under this section shall receive a sentence of at least six years and shall be entitled to credit for good behavior under G.S. 15A-1340.7, except that such credit shall not reduce the time served to less than three years. A person so convicted shall serve a term of not less than three years, excluding gain time granted under G.S. 148-13. The sentencing judge shall not suspend the sentence and shall not place the person sentenced on probation. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the person sentenced.~~"

-----SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR

Sec. 1197. G.S. 14-190.17(d) reads as rewritten:

"(d) Punishment and Sentencing. -- Violation of this section is a Class ~~H~~ F felony. ~~Notwithstanding any other provision of law, except a person sentenced as a committed youthful offender, a person convicted under this section shall receive a sentence of at least four years and shall be entitled to credit for good behavior under G.S. 15A-1340.7, except that such credit shall not reduce the time served to less than two years. A person so convicted shall serve a term of not less than two years, excluding gain time granted under G.S. 148-13. The sentencing judge may not suspend the sentence and may not place the person sentenced on probation. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the person sentenced.~~"

-----THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR

Sec. 1198. G.S. 14-190.17A(d) reads as rewritten:

"(d) Punishment and Sentencing - Violation of this section is a Class ~~J~~ I felony."

-----PROMOTING PROSTITUTION OF A MINOR

Sec. 1199. G.S. 14-190.18(c) reads as rewritten:

"(c) Punishment and Sentencing. -- Violation of this section is a Class ~~G~~ F felony. ~~Notwithstanding any other provision of law, except a person sentenced as a committed youthful offender, a person convicted under this section shall receive a sentence of at least six years and shall be entitled to credit for good behavior under G.S. 15A-1340.7, except that such credit shall not reduce the time served to less than three years. A person so convicted shall serve a sentence of not less than three years, excluding gain time granted under G.S. 148-13. The sentencing judge may not suspend the sentence and may not place the person sentenced on probation. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the person sentenced.~~"

-----PARTICIPATING IN PROSTITUTION OF A MINOR

Sec. 1200. G.S. 14-190.19(c) reads as rewritten:

"(c) Punishment and Sentencing. -- Violation of this section is a Class ~~H~~ F felony. ~~Notwithstanding any other provision of law, except a person sentenced as a committed youthful offender, a person convicted under this section shall receive a sentence of at least four years and shall be entitled to credit for good behavior under G.S. 15A-1340.7, except that such credit shall not reduce the time served to less than two years. A person so convicted shall serve a term of not less than two years, excluding gain time granted under G.S. 148-13. The sentencing judge may not suspend the sentence and may not place the person sentenced on probation. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the person sentenced.~~"

-----TAKING INDECENT LIBERTIES WITH CHILDREN

Sec. 1201. G.S. 14-202.1(b) reads as rewritten:

"(b) Taking indecent liberties with children is punishable as a Class ~~H~~ F felony."

-----PUNISHMENT FOR PERJURY

Sec. 1202. G.S. 14-209 reads as rewritten:

"*§ 14-209. Punishment for perjury.*

If any person shall willfully and corruptly commit perjury, on his oath or affirmation, in any suit, controversy, matter or cause, depending in any of the courts of the State, or in any deposition or

affidavit taken pursuant to law, or in any oath or affirmation duly administered of or concerning any matter or thing whereof such person is lawfully required to be sworn or affirmed, every person so offending shall be punished as a Class ~~H~~ F felon."

-----SUBORNATION OF PERJURY

Sec. 1203. G.S. 14-210 reads as rewritten:

"§ *14-210. Subornation of perjury.*

If any person shall, by any means, procure another person to commit such willful and corrupt perjury as is mentioned in G.S. 14-209, the person so offending shall be punished ~~in like manner as the person committing the perjury,~~ as a Class I felon."

-----PERJURY BEFORE LEGISLATIVE COMMITTEES

Sec. 1204. G.S. 14-211 reads as rewritten:

"§ *14-211. Perjury before legislative committees.*

If any person shall willfully and corruptly swear falsely to any fact material to the investigation of any matter before any committee or commission of either house of the General Assembly, he shall be subject to all the pains and penalties of willful and corrupt perjury, and, on conviction in the Superior Court of Wake County, shall be punished as a Class ~~H~~ I felon."

-----PERJURY IN COURT-MARTIAL PROCEEDINGS

Sec. 1205. G.S. 14-212 reads as rewritten:

"§ *14-212. Perjury in court-martial proceedings.*

If any person shall willfully and corruptly swear falsely before any court-martial, touching and concerning any matter or thing cognizable before such court-martial, he shall be punished as a Class ~~H~~ I felon."

-----BRIBERY OF OFFICIALS

Sec. 1206. G.S. 14-217(a) reads as rewritten:

"(a) If any person holding office under the laws of this State who, except in payment of his legal salary, fees or perquisites, shall receive, or consent to receive, directly or indirectly, anything of value or personal advantage, or the promise thereof, for performing or omitting to perform any official act, which lay within the scope of his official authority and was connected with the discharge of his official and legal duties, or with the express or implied understanding that his official action, or omission to act, is to be in any degree influenced thereby, he shall be punished as a Class ~~I~~ F felon."

Sec. 1207. G.S. 14-217(c) is repealed.

-----OFFERING BRIBES

Sec. 1208. G.S. 14-218 reads as rewritten:

"§ *14-218. Offering bribes.*

If any person shall offer a bribe, whether it be accepted or not, he shall be punished as a Class ~~I~~ F felon."

-----BRIBERY OF JURORS

Sec. 1209. G.S. 14-220 reads as rewritten:

"§ *14-220. Bribery of jurors.*

If any juror, either directly or indirectly, shall take anything from the plaintiff or defendant in a civil suit, or from any defendant in a State prosecution, or from any other person, to give his verdict, every such juror, and the person who shall give such juror any fee or reward to influence his verdict, or induce or procure him to make any gain or profit by his verdict, shall be punished as a Class ~~H~~ F felon."

-----BREAKING INTO JAILS WITH INTENT TO INJURE

Sec. 1210. G.S. 14-221 reads as rewritten:

"§ *14-221. Breaking or entering jails with intent to injure prisoners.*

If any person shall conspire to break or enter any jail or other place of confinement of prisoners charged with crime or under sentence, for the purpose of killing or otherwise injuring any prisoner confined therein; or if any person shall engage in breaking or entering any such jail or other place of confinement of such prisoners with intent to kill or injure any prisoner, he shall be punished as a Class ~~G~~ F felon."

-----HARASSMENT OF AND COMMUNICATION WITH JURORS

Sec. 1211. G.S. 14-225.2(c) reads as rewritten:

"(c) A person who commits the offense defined in subdivision (a)(1) of this section is guilty of a Class ~~I~~ H felony. A person who commits the offense defined in subdivision (a)(2) of this section is guilty of a ~~misdemeanor and upon conviction shall be punishable as provided in G.S. 14-3(a).~~ Class I felony."

-----INTIMIDATING OR INTERFERING WITH WITNESSES

Sec. 1212. G.S. 14-226 reads as rewritten:

"§ *14-226. Intimidating or interfering with witnesses.*

If any person shall by threats, menaces or in any other manner intimidate or attempt to intimidate any person who is summoned or acting as a witness in any of the courts of this State, or prevent or deter, or attempt to prevent or deter any person summoned or acting as such witness from attendance upon such court, he shall be guilty of a ~~misdemeanor, and upon conviction shall be fined or imprisoned in the discretion of the court.~~ Class H felony."

-----BUYING AND SELLING OFFICES

Sec. 1213. G.S. 14-228 reads as rewritten:

"§ *14-228. Buying and selling offices.*

If any person shall bargain away or sell an office or deputation of an office, or any part or parcel thereof, or shall take money, reward or other profit, directly or indirectly, or shall take any promise, covenant, bond or assurance for money, reward or other profit, for an office or the deputation of an office, or any part thereof, which office, or any part thereof, shall touch or concern the administration or

execution of justice, or the receipt, collection, control or disbursement of the public revenue, or shall concern or touch any clerkship in any court of record wherein justice is administered; or if any person shall give or pay money, reward or other profit, or shall make any promise, agreement, bond or assurance for any of such offices, or for the deputation of any of them, or for any part of them, the person so offending in any of the cases aforesaid shall be guilty of a ~~misdemeanor, and on conviction thereof shall forfeit all his right, interest and estate in such office, and every part and parcel thereof, and shall be imprisoned and fined at the discretion of the court.~~ Class I felony."

-----MAKING OF FALSE REPORT BY BANK EXAMINERS; BRIBES

Sec. 1214. G.S. 14-233 reads as rewritten:

"*§ 14-233. Making of false report by bank examiners; accepting bribes.*

If any bank examiner shall knowingly and willfully make any false or fraudulent report of the condition of any bank, which shall have been examined by him, with the intent to aid or abet the officers, owners, or agents of such bank in continuing to operate an insolvent bank, or if any such examiner shall keep or accept any bribe or gratuity given for the purpose of inducing him not to file any report of examination of any bank made by him, or shall neglect to make an examination of any bank by reason of having received or accepted any bribe or gratuity, he shall be punished as a Class ~~H~~ I felon."

-----FAILURE OF RAILROAD OFFICERS TO ACCOUNT

Sec. 1215. G.S. 14-253 reads as rewritten:

"*§ 14-253. Failure of certain railroad officers to account with successors.*

If the president and directors of any railroad company, and any person acting under them, shall, upon demand, fail or refuse to account with the president and directors elected or appointed to succeed them, and to transfer to them forthwith all the money, books, papers, choses in action, property and effects of every kind and description belonging to such company, they shall be guilty of a ~~felony, and shall be punished by imprisonment in the State's prison for not less than one nor more than five years, and be fined at the discretion of the court.~~ Class I felony. All persons conspiring with any such president, directors or their agents to defeat, delay or hinder the execution of this section shall be guilty of a misdemeanor, and shall be punished in like manner. The Governor is hereby authorized, at the request of the president, directors and other officers of any railroad company, to make requisition upon the governor of any other state for the apprehension of any such president failing to comply with this section."

-----MALFEASANCE OF CORPORATION OFFICERS AND AGENTS

Sec. 1216. G.S. 14-254(a) reads as rewritten:

"(a) If any president, director, cashier, teller, clerk or agent of any corporation shall embezzle, abstract or willfully misapply any of the moneys, funds or credits of the corporation, or shall, without authority from the directors, issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment or decree, or make any false entry in any book, report or statement of the corporation with the intent in either case to injure or defraud or to deceive any person, or if any person shall aid and abet in the doing of any of these things, he shall be punished as a Class ~~G~~ H felon."

-----PRISON BREACH AND ESCAPE FROM COUNTY OR MUNICIPAL

Sec. 1217. G.S. 14-256 reads as rewritten:

"*§ 14-256. Prison breach and escape from county or municipal confinement facilities or officers.*

If any person shall break any prison, jail or lockup maintained by any county or municipality in North Carolina, being lawfully confined therein, or shall escape from the lawful custody of any superintendent, guard or officer of such prison, jail or lockup, he shall be guilty of a misdemeanor, except that the person is guilty of a Class ~~J~~ I felony if:

(1) He has been convicted of a felony and has been committed to the facility pending transfer to the State prison system; or

(2) He is serving a sentence imposed upon conviction of a felony."

-----CONVEYING MESSAGES AND WEAPONS TO OR TRADING WITH CONVICTS

Sec. 1218. G.S. 14-258 reads as rewritten:

"*§ 14-258. Conveying messages and weapons to or trading with convicts and other prisoners.*

If any person shall convey to or from any convict any letters or oral messages, or shall convey to any convict or person imprisoned, charged with crime and awaiting trial any weapon or instrument by which to effect an escape, or that will aid him in an assault or insurrection, or shall trade with a convict for his clothing or stolen goods, or shall sell to him any article forbidden him by prison rules, he shall be guilty of a ~~misdemeanor;~~ Class H felony: Provided, that when a murder, an assault or an escape is effected with the means furnished, the person convicted of furnishing the means shall be punished as a Class ~~H~~ F felon."

-----POSSESSION OF DANGEROUS WEAPON IN PRISON

Sec. 1219. G.S. 14-258.2(a) reads as rewritten:

"(a) Any person while in the custody of the Division of Prisons, or any person under the custody of any local confinement facility as defined in G.S. 153A-217, who shall have in his possession without permission or authorization a weapon capable of inflicting serious bodily injuries or death, or who shall fabricate or create such a weapon from any source, shall be guilty of a ~~misdemeanor;~~ Class H felony; and any person who commits any assault with such weapon and thereby inflicts bodily injury or by the use of said weapon effects an escape or rescue from imprisonment shall be punished as a Class ~~H~~ F felon."

-----TAKING OF HOSTAGE, ETC., BY PRISONER

Sec. 1220. G.S. 14-258.3 reads as rewritten:

"*§ 14-258.3. Taking of hostage, etc., by prisoner.*

Any prisoner in the custody of the Department of Correction, including persons in the custody of the Department of Correction pending trial or appellate review or for presentence diagnostic evaluation, or any prisoner in the custody of any local confinement facility (as defined in G.S. 153A-217), or any person in the custody of any local confinement facility (as defined in G.S. 153A-217) pending trial or appellate review or for any lawful purpose, who by threats, coercion, intimidation or physical force takes, holds, or carries away any person, as hostage or otherwise, shall be punished as a Class ~~I~~ F felon. The provisions of this section apply to: (i) violations committed by any prisoner in the custody of the Department of Correction, whether inside or outside of the facilities of the North Carolina Department of Correction; (ii) violations committed by any prisoner or by any other person lawfully under the custody of any local confinement facility (as defined in G.S. 153A-217), whether inside or outside the local confinement facilities (as defined in G.S. 153A-217)."

-----WILLFUL INJURY TO PROPERTY OF RAILROADS

Sec. 1221. G.S. 14-278 reads as rewritten:

"*§ 14-278. Willful injury to property of railroads.*

It shall be unlawful for any person to willfully, with intent to cause injury to any person passing over the railroad or damage to the equipment traveling on such road, put or place any matter or thing upon, over or near any railroad track, or destroy, injure, tamper with, or remove the roadbed, or any part thereof, or any rail, sill or other part of the fixtures appurtenant to or constituting or supporting any portion of the track of such railroad, and the person so offending shall be punished as a Class ~~H~~ I felon."

-----SHOOTING OR THROWING AT TRAINS OR PASSENGERS

Sec. 1222. G.S. 14-280 reads as rewritten:

"*§ 14-280. Shooting or throwing at trains or passengers.*

If any person shall willfully cast, throw or shoot any stone, rock, bullet, shot, pellet or other missile at, against, or into any railroad car, locomotive or train, or any person thereon, while such car or locomotive shall be in progress from one station to another, or while such car, locomotive or train shall be stopped for any purpose, the person so offending shall be guilty of a ~~misdemeanor, and shall be punished by fine or imprisonment in the county jail or State's prison, at the discretion of the court.~~ Class I felony."

-----DISPLAYING FALSE LIGHTS ON SEASHORE

Sec. 1223. G.S. 14-282 reads as rewritten:

"*§ 14-282. Displaying false lights on seashore.*

If any person shall make or display, or cause to be made or displayed, any false light or beacon on or near the seacoast, for the purpose of deceiving and misleading masters of vessels, and thereby putting them in danger of shipwreck, he shall be guilty of a Class ~~H~~ I felony."

-----DUMPING OF TOXIC SUBSTANCES

Sec. 1224. G.S. 14-284.2(a) reads as rewritten:

"(a) It shall be unlawful to deposit, place, dump, discharge, spill, release, burn, incinerate, or otherwise dispose of any toxic substances as defined in this section or radioactive material as defined in G.S. 104E-5 into the atmosphere, in the waters, or on land, except where such disposal is conducted pursuant to federal or State law, regulation, or permit. Any person who willfully violates the provisions of this section shall be guilty of a Class ~~H~~ F felony. The fine authorized by G.S. 14-1.1(a)(8) for a conviction under this section may include a fine of up to one hundred thousand dollars ($100,000) per day of violation."

-----RIOT; INCITING TO RIOT; PUNISHMENTS

Sec. 1225. G.S. 14-288.2(c) reads as rewritten:

"(c) Any person who willfully engages in a riot is guilty of a Class ~~I~~ H felony, if:

(1) In the course and as a result of the riot there is property damage in excess of fifteen hundred dollars ($1,500) or serious bodily injury; or

(2) Such participant in the riot has in his possession any dangerous weapon or substance."

Sec. 1226. G.S. 14-288.2(e) reads as rewritten:

"(e) Any person who willfully incites or urges another to engage in a riot, and such inciting or urging is a contributing cause of a riot in which there is property damage in excess of fifteen hundred dollars ($1,500) or serious bodily injury, shall be punished as a Class ~~H~~ F felon."

-----LOOTING; TRESPASS DURING EMERGENCY

Sec. 1227. G.S. 14-288.6(b) reads as rewritten:

"(b) Any person who commits the crime of trespass during emergency and, without legal justification, obtains or exerts control over, damages, ransacks, or destroys the property of another is guilty of the felony of looting and shall be punished as a Class ~~I~~ H felon."

-----WEAPON OF MASS DEATH AND DESTRUCTION

Sec. 1228. G.S. 14-288.8(d) reads as rewritten:

"(d) Any person who violates any provision of this section is guilty of a Class ~~I~~ F felony."

-----ASSAULT ON EMERGENCY PERSONNEL; PUNISHMENTS

Sec. 1229. G.S. 14-288.9(c) reads as rewritten:

"(c) Any person who commits an assault upon emergency personnel is guilty of a misdemeanor punishable as provided in G.S. 14-3(a). Any person who commits an assault upon emergency personnel with or through the use of any dangerous weapon or substance shall be punished as a Class ~~I~~ F felon."

-----CERTAIN WEAPONS AT CIVIL DISORDERS

Sec. 1230. G.S. 14-288.20(b) reads as rewritten:

"(b) A person is guilty of a Class ~~I~~ H felony, if he:

(1) Teaches or demonstrates to any other person the use, application, or making of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder; or

(2) Assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, intending to employ unlawfully the training, practicing, instruction, or technique for use in, or in furtherance of, a civil disorder."

-----BINGO

Sec. 1231. G.S. 14-309.5(b) reads as rewritten:

"(b) It is lawful for an exempt organization to conduct bingo games in accordance with the provisions of this Part. Any licensed exempt organization who conducts a bingo game in violation of any provision of this Part shall be guilty of a misdemeanor under G.S. 14-292 and shall be punished in accordance with G.S. 14-3. Upon conviction such person shall not conduct a bingo game for a period of one year. It is lawful to participate in a bingo game conducted pursuant to this Part. It shall be a Class ~~H~~ I felony for any person: (i) to operate a bingo game without a license; (ii) to operate a bingo game while license is revoked or suspended; (iii) to willfully misuse or misapply any moneys received in connection with any bingo game; or (iv) to

contract with or provide consulting services to any licensee. It shall not constitute a violation of any State law to advertise a bingo game conducted in accordance with this Part."

-----BEACH BINGO

Sec. 1232. G.S. 14-309.14 reads as rewritten:

"§ *14-309.14. Beach bingo.*

Nothing in this Article shall apply to 'beach bingo' games except for the following ~~subsections:~~ subdivisions:

~~(a)~~

(1) No beach bingo game may offer a prize having a value greater than ten dollars ($10.00). Any person offering a greater than ten-dollar ($10.00) but less than fifty-dollar ($50.00) prize is guilty of a misdemeanor. Any person offering a prize of fifty dollars ($50.00) or greater is guilty of a Class ~~H~~ I felony.

~~(b)~~

(2) No beach bingo game may be held in conjunction with any other lawful bingo game, with any 'promotional bingo game', or with any offering of an opportunity to obtain anything of value, whether for valuable consideration or not. No beach bingo game may offer free bingo games as a promotion, for prizes or otherwise. Any person who violates this subsection is guilty of a Class ~~H~~ I felony.

(c) G.S. 18B-308 shall apply to beach bingo games.

(d) Upon conviction under any provision of this section, such person shall not conduct a bingo game for a period of at least one year."

-----CHILD ABUSE A FELONY

Sec. 1233. G.S. 14-318.4 reads as rewritten:

"§ *14-318.4. Child abuse a felony.*

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a Class ~~H~~ E felony.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the juvenile is guilty of child abuse and shall be punished as a Class ~~H~~ E felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon a juvenile is guilty of a Class ~~H~~ E felony.

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies."

-----TRANSPORTING CHILD OUTSIDE THE STATE

Sec. 1234. G.S. 14-320.1 reads as rewritten:

"§ *14-320.1. Transporting child outside the State with intent to violate custody order.*

When any federal court or state court in the United States shall have awarded custody of a child under the age of 16 years, it shall be a felony for any person with the intent to violate the court order to take or transport, or cause to be taken or transported, any such child from any point within this State to any point outside the limits of this State or to keep any such child outside the limits of this State. Such crime shall be punishable as a Class ~~J~~ I felony. Provided that keeping a child outside the limits of the State in violation of a court order for a period in excess of 72 hours shall be prima facie evidence that the person charged intended to violate the order at the time of taking."

-----POISONOUS ALCOHOLIC BEVERAGES

Sec. 1235. G.S. 14-329(b) reads as rewritten:

"(b) Any person who, either individually or as agent for any person, firm or corporation, shall, knowing or having reasonable grounds to know of the poisonous qualities thereof, transport for other than personal use, sell or possess for purpose of sale, for use as a beverage, any spirituous liquor which is found to contain any foreign properties or ingredients poisonous to the human system, shall be punished as a Class ~~H~~ F felon."

-----ANIMAL FIGHTS AND ANIMAL BAITING.

Sec. 1236. G.S. 14-362.1(d) reads as rewritten:

"(d) A person who commits an offense under subsection (a) within three years after being convicted of an offense under this section is guilty of a Class ~~J~~ I felony."

-----ALTERING THE BRANDS OF AND MISBRANDING ANOTHER'S LIVESTOCK

Sec. 1237. G.S. 14-367 reads as rewritten:

"§ *14-367. Altering the brands of and misbranding another's livestock.*

If any person shall knowingly alter or deface the mark or brand of any other person's horse, mule, ass, neat cattle, sheep, goat, or hog, or shall knowingly mismark or brand any such beast that may be unbranded or unmarked, not properly his own, with intent to defraud any other person, the person so offending shall be guilty of a ~~felony, and shall be punished as if convicted of larceny.~~ Class H felony."

-----BRIBERY OF PLAYERS, MANAGERS, COACHES, REFEREES, ETC.

Sec. 1238. G.S. 14-373 reads as rewritten:

"§ 14-373. Bribery of players, managers, coaches, referees, umpires or officials.

If any person shall bribe or offer to bribe or shall aid, advise, or abet in any way another in such bribe or offer to bribe, any player or participant in any athletic contest with intent to influence his play, action, or conduct and for the purpose of inducing the player or participant to lose or try to lose or cause to be lost any athletic contest or to limit or try to limit the margin of victory or defeat in such contest; or if any person shall bribe or offer to bribe or shall aid, advise, or abet in any way another in such bribe or offer to bribe, any referee, umpire, manager, coach, or any other official or an athletic club or team, league, association, institution or conference, by whatever name called connected with said athletic contest with intent to influence his decision or bias his opinion or judgment for the purpose of losing or trying to lose or causing to be lost said athletic contest or of limiting or trying to limit the margin of victory or defeat in such contest, such person shall be punished as a Class ~~H~~ I felon."

-----ACCEPTANCE OF BRIBES BY PLAYERS, MANAGERS, COACHES, ETC.

Sec. 1239. G.S. 14-374 reads as rewritten:

"§ 14-374. Acceptance of bribes by players, managers, coaches, referees, umpires or officials.

If any player or participant in any athletic contest shall accept, or agree to accept, a bribe given for the purpose of inducing the player or participant to lose or try to lose or cause to be lost or limit or try to limit the margin of victory or defeat in such contest; or if any referee, umpire, manager, coach, or any other official of an athletic club, team, league, association, institution, or conference connected with an athletic contest shall accept or agree to accept a bribe given with the intent to influence his decision or bias his opinion or judgment and for the purpose of losing or trying to lose or causing to be lost said athletic contest or of limiting or trying to limit the margin of victory or defeat in such contest, such person shall be punished as a Class ~~H~~ I felon."

-----INTENTIONAL LOSING OF ATHLETIC CONTEST OR POINT-SHAVING

Sec. 1240. G.S. 14-377 reads as rewritten:

"§ 14-377. Intentional losing of athletic contest or limiting margin of victory or defeat.

If any player or participant shall commit any willful act of omission or commission, in playing of an athletic contest, with intent to lose or try to lose or to cause to be lost or to limit or try to limit the margin of victory or defeat in such contest for the purpose of material gain to himself, or if any referees, umpire, manager, coach, or other official

of an athletic club, team, league, association, institution or conference connected with an athletic contest shall commit any willful act of omission or commission connected with his official duties with intent to try to lose or to cause to be lost or to limit or try to limit the margin of victory or defeat in such contest for the purpose of material gain to himself, such person shall be punished as a Class ~~H~~ I felon."

-----LITTERING

Sec. 1241. G.S. 14-399(e) reads as rewritten:

"(e) Any person who violates this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class ~~J~~ I felony. In addition, the court may order the violator to:

(1) Remove, or render harmless, the litter that he discarded in violation of this section;

(2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or

(3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section."

-----DISTRIBUTION OF CERTAIN FOOD AT HALLOWEEN

Sec. 1242. G.S. 14-401.11(b) reads as rewritten:

"(b) Penalties.

(1) Any person violating the provisions of G.S. 14-401.11(a)(1):

a. Where the actual or possible effect on a person eating the food or substance was or would be limited to mild physical discomfort without any lasting effect, shall be guilty of a ~~misdemeanor punishable in the discretion of the court.~~ Class I felony.

b. Where the actual or possible effect on a person eating the food or substance was or would be greater than mild physical discomfort without any lasting effect, shall be punished as a Class H felon.

(2) Any person violating the provisions of G.S. 14-401.11(a)(2) shall be punished as a Class ~~H~~ F felon.

(3) Any person violating the provisions of G.S. 14-401.11(a)(3) shall be punished as a Class ~~D~~ C felon."

-----MACHINE GUNS AND OTHER LIKE WEAPONS

Sec. 1243. G.S. 14-409(c) reads as rewritten:

"(c) Any person violating any of the provisions of this section shall be guilty of a ~~misdemeanor and shall be fined not less than five~~

~~hundred dollars ($500.00), or imprisoned for not less than six months, or both, in the discretion of the court.~~ Class I felony."

-----MACHINE GUNS AND OTHER LIKE WEAPONS

Sec. 1244. G.S. 14-409.9(c) reads as rewritten:

"(c) Any person violating any of the provisions of this section shall be guilty of a ~~misdemeanor and shall be fined not less than five hundred dollars ($500.00), or imprisoned for not less than six months, or both, in the discretion of the court.~~ Class I felony."

-----POSSESSION OF FIREARMS BY FELON PROHIBITED

Sec. 1245. G.S. 14-415.1(a) reads as rewritten:

"(a) It shall be unlawful for any person who has been convicted of any crime set out in subsection (b) of this section to purchase, own, possess, or have in his custody, care, or control any handgun or other firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(c), within five years from the date of such conviction, or the unconditional discharge from a correctional institution, or termination of a suspended sentence, probation, or parole upon such conviction, whichever is later.

Every person violating the provisions of this section shall be punished as a Class ~~I~~ H felon.

Nothing in this subsection would prohibit the right of any person to have possession of a firearm within his own home or on his lawful place of business."

-----RECORD AND TAPE PIRACY

Sec. 1246. G.S. 14-437(a)(1) reads as rewritten:

"(1) A Class I felony, ~~punishable by imprisonment for not more than five years,~~ which may include a fine of not more than one hundred fifty thousand dollars ($150,000), ~~or both,~~ if the offense involves at least 1,000 unauthorized sound recordings or at least 100 unauthorized audio visual recordings during any 180-day period or is a second or subsequent conviction under either subdivision (1) or (2) of this section;"

-----VIOLATIONS OF PERMIT PROVISIONS

Sec. 1247. G.S. 20-30(7) reads as rewritten:

"(7) To sell or offer for sale any reproduction or facsimile or simulation of a driver's license or learner's permit. The provisions of this ~~subsection~~ subdivision shall not apply to agents or employees of the Division while acting in the course and scope of their employment. Any person, firm or corporation violating the provisions of this subsection shall be guilty of a Class ~~J~~ I felony."

-----PENALTIES FOR FAILURE TO APPEAR

Sec. 1248. G.S. 15A-343(b) reads as rewritten:

"(b) A violation of this section is a Class ~~J~~ I felony if:

(1) The violator was released in connection with a felony charge against him; or

(2) The violator was released under the provisions of G.S. 15A-536."

-----MAKING FALSE AFFIDAVITS PERJURY

Sec. 1249. G.S. 20-31 reads as rewritten:

"*§ 20-31. Making false affidavits perjury.*

Any person who shall make any false affidavit, or shall knowingly swear or affirm falsely, to any matter or thing required by the terms of this Article to be sworn to or affirmed shall be guilty of ~~perjury and upon conviction shall be punished by fine or imprisonment as other persons committing perjury are punishable under the laws of this State.~~ a Class I felony."

-----UNLAWFUL TO ISSUE LICENSES FOR ANYTHING OF VALUE

Sec. 1250. G.S. 20-34.1 reads as rewritten:

"*§ 20-34.1. Unlawful to issue licenses for anything of value except prescribed fees.*

It shall be unlawful for any employee of the Division of Motor Vehicles to charge or accept any money or other thing of value except the fees prescribed by law for the issuance of a driver's license, and the fact that the license is not issued after said employee charges or accepts money or other thing of value shall not constitute a defense to a criminal action under this section. In a prosecution under this section it shall not be a defense to show that the person giving the money or other thing of value or the person receiving the license or intended to receive the same is entitled to a license under the Uniform Driver's License Act. Any person violating this section shall be guilty of a ~~felony and upon conviction shall be punished by imprisonment in the State's prison for not more than five years or by~~ Class I felony which may include a fine of not more than five thousand dollars ~~($5,000) or by both such fine and imprisonment.~~ ($5,000)."

-----REPRODUCING OR POSSESSING BLANK CERTIFICATE OF TITLE

Sec. 1251. G.S. 20-71(b) reads as rewritten:

"(b) It shall be unlawful for any person with fraudulent intent to reproduce or possess a blank North Carolina certificate of title or facsimile thereof. Any person, firm or corporation violating the provisions of this section shall be guilty of a ~~felony and upon conviction shall be punished as provided in G.S. 20-177.~~ Class I felony."

-----RECEIVING OR TRANSFERRING STOLEN VEHICLES

Sec. 1252. G.S. 20-106 reads as rewritten:

"*§ 20-106. Receiving or transferring stolen vehicles.*

Any person who, with intent to procure or pass title to a vehicle which he knows or has reason to believe has been stolen or unlawfully taken, receives or transfers possession of the same from or to another, or who has in his possession any vehicle which he knows or has reason to believe has been stolen or unlawfully taken, and who is not an officer of the law engaged at the time in the performance of his duty as such officer shall be punished as a Class ~~I~~ H felon."

-----FRAUD IN CONNECTION WITH RENTAL OF MOTOR VEHICLES

Sec. 1253. G.S. 20-106.1 reads as rewritten:

"*§ 20-106.1. Fraud in connection with rental of motor vehicles.*

Any person with the intent to defraud the owner of any motor vehicle or a person in lawful possession thereof, who obtains possession of said vehicle by agreeing in writing to pay a rental for the use of said vehicle, and further agreeing in writing that the said vehicle shall be returned to a certain place, or at a certain time, and who willfully fails and refuses to return the same to the place and at the time specified, or who secretes, converts, sells or attempts to sell the same or any part thereof shall be guilty of a Class I felony."

-----SUBLEASE AND LOAN ASSUMPTION ARRANGING

Sec. 1254. G.S. 20-106.2(d) reads as rewritten:

"(d) An offense under subdivision (b)(1) or (b)(2) of this section is a Class ~~J~~ I felony."

-----ALTERING OR CHANGING ENGINE OR OTHER NUMBERS

Sec. 1255. G.S. 20-109(a) reads as rewritten:

"(a) It shall be unlawful and constitute a felony for:

(1) Any person to willfully deface, destroy, remove, cover, or alter the manufacturer's serial number, transmission number, or engine number; or

(2) Any vehicle owner to knowingly permit the defacing, removal, destroying, covering, or alteration of the serial number, transmission number, or engine number; or

(3) Any person except a licensed vehicle manufacturer as authorized by law to place or stamp any serial number, transmission number, or engine number upon a vehicle, other than one assigned thereto by the Division; or

(4) Any vehicle owner to knowingly permit the placing or stamping of any serial number or motor number upon a motor vehicle, except such numbers as assigned thereto by the Division.

A violation of this subsection shall be punishable as a Class ~~J~~ I felony."

-----MAKING FALSE AFFIDAVIT PERJURY

Sec. 1256. G.S. 20-112 reads as rewritten:

"§ *20-112. Making false affidavit perjury.*

Any person who shall knowingly make any false affidavit or shall knowingly swear or affirm falsely to any matter or thing required by the terms of this Article to be sworn or affirmed to shall be guilty of ~~perjury, and upon conviction shall be punishable by a fine and imprisonment as other persons committing perjury are punishable.~~ a Class I felony."

-----SMOKE SCREENS

Sec. 1257. G.S. 20-136(b) reads as rewritten:

"(b) Any person or persons violating the provisions of this section shall be guilty of a ~~felony, and upon conviction shall be imprisoned in the State's prison for a period of not less than one year or not more than 10 years, in the discretion of the court.~~ Class I felony."

-----HABITUAL IMPAIRED DRIVING

Sec. 1258. G.S. 20-138.5(b) reads as rewritten:

"(b) A person convicted of violating this section shall be punished as a Class ~~J~~ I ~~felon and shall be sentenced to a minimum term of one year of imprisonment which shall not be suspended~~. Sentences imposed under this subsection shall run consecutively with and shall commence at the expiration of any sentence being served."

-----FELONY AND MISDEMEANOR DEATH BY VEHICLE

Sec. 1259. G.S. 20-141.4(b) reads as rewritten:

"(b) Punishments. -- Felony death by vehicle is a Class ~~I~~ G felony. misdemeanor death by vehicle is a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than two years, or both, in the discretion of the court."

-----DUTY TO STOP IN EVENT OF ACCIDENT OR COLLISION.

Sec. 1260. G.S. 20-166(a) reads as rewritten:

"(a) The driver of any vehicle who knows or reasonably should know:

(1) That the vehicle which he is operating is involved in an accident or collision; and

(2) That the accident or collision has resulted in injury or death to any person;

shall immediately stop his vehicle at the scene of the accident or collision. He shall remain at the scene of the accident until a law-enforcement officer completes his investigation of the accident or collision or authorizes him to leave; Provided, however, that he may leave to call for a law-enforcement officer or for medical assistance or medical treatment as set forth in (b), but must return to the accident scene within a reasonable period of time. A willful violation of this subsection shall be punished as a Class ~~I~~ H felony."

-----FALSE AFFIDAVITS

Sec. 1261. G.S. 20-279.31(c1) reads as rewritten:

"(c1) Any person who makes a false affidavit or knowingly swears or affirms falsely to any matter under G.S. 20-279.5, 20-279.6, or 20-279.7 is guilty of ~~perjury and shall be punished as provided in G.S. 14-209.~~ a Class I felony."

-----UNLAWFUL CHANGE OF MILEAGE

Sec. 1262. G.S. 20-350 reads as rewritten:

"*§ 20-350. Criminal offense.*

Any person, firm or corporation violating G.S. 20-343 shall be guilty of a Class ~~J~~ I felony. A violation of any remaining provision of this Article shall be a misdemeanor."

-----FALSE SWEARING; PENALTY

Sec. 1263. G.S. 23-43 reads as rewritten:

"*§ 23-43. False swearing; penalty.*

If any insolvent or imprisoned debtor takes any oath prescribed in this chapter falsely and corruptly, ~~and upon indictment for perjury is convicted thereof, he shall suffer all the pains of perjury,~~ that person is guilty of a Class I felony, and he shall never after have any of the benefits of this chapter, but may be sued and imprisoned as though he had never been discharged."

-----COMPENSATION FOR PLACING OR ARRANGING PLACEMENT OF CHILD

Sec. 1264. G.S. 48-37 reads as rewritten:

"*§ 48-37. Compensation for placing or arranging placement of child for adoption prohibited.*

No person, agency, association, corporation, institution, society or other organization, except a licensed child-placing agency as defined by G.S. 48-2(4), or a county department of social services, shall offer or give, charge or accept any fee, compensation, consideration or thing of value for receiving or placing, arranging the placement of, or assisting in placing or arranging the placement of, any child for adoption. Provided, that the adoptive parents may pay the reasonable and actual medical expenses incurred by the biological mother incident to the birth of the child, and provided that in the petition for adoption the adoptive parents must disclose the amount of these payments and must represent that there were no gifts or payments of, or promises to give or pay, any other fee, compensation, consideration, or thing of value such as is prohibited by this section. The act of preparing and filing the adoption proceeding before the court shall not be construed as receiving or placing, arranging the placement of, or assisting in placing or arranging the placement of, any child for adoption. Any person who violates any provision of this section shall be guilty of a misdemeanor, and upon conviction or plea of guilty shall be fined or

imprisoned or both at the discretion of the court. Any person who is convicted of or pleads guilty to a second or subsequent violation of this section shall be guilty of a ~~felony and shall be imprisoned for not more than three years or fined~~ Class H felony which may include a fine not more than ten thousand dollars ~~($10,000) or both at the discretion of the court.~~ ($10,000)."

-----EXAMINER MAKING FALSE REPORT

Sec. 1265. G.S. 53-124 reads as rewritten:

"*§ 53-124. Examiner making false report.*

If any bank examiner shall knowingly and willfully make any false or fraudulent report of the condition of any bank, which shall have been examined by him, with the intent to aid or abet the officers, owners, or agents of such bank in continuing to operate an insolvent bank, or if any such examiner shall keep or accept any bribe or gratuity given for the purpose of inducing him not to file any report of examination of any bank made by him, or shall neglect to make an examination of any bank by reason of having received or accepted any bribe or gratuity, he shall be guilty of a ~~felony, and on conviction thereof shall be imprisoned in the State prison for not less than four months nor more than 10 years.~~ Class H felony."

-----MISAPPLICATION, EMBEZZLEMENT OF FUNDS, ETC

Sec. 1266. G.S. 53-129 reads as rewritten:

"*§ 53-129. Misapplication, embezzlement of funds, etc.*

Whoever being an officer, employee, agent or director of a bank, with intent to defraud or injure the bank, or any person or corporation, or to deceive an officer of the bank or an agent appointed to examine the affairs of such bank, embezzles, abstracts, or misapplies any of the money, funds, credit or property of such bank, whether owned by it or held in trust, or who, with such intent, willfully and fraudulently issues or puts forth a certificate of deposit, draws an order or bill of exchange, makes an acceptance, assigns a note, bond, draft, bill of exchange, mortgage, judgment, decree or fictitiously borrows or solicits, obtains or receives money for a bank not in good faith, intended to become the property of such bank; or whoever being an officer, employee, agent, or director of a bank, makes or permits the making of a false statement or certificate, as to a deposit, trust fund or contract, or makes or permits to be made a false entry in a book, report, statement or record of such bank, or conceals or permits to be concealed by any means or manner, the true and correct entries of said bank, or its true and correct transactions, who knowingly loans, or permits to be loaned, the funds or credit of any bank to any insolvent company or corporation, or corporation which has ceased to exist, or which never had any existence, or upon collateral consisting of stocks or bonds of such company or

corporation, or who makes or publishes or knowingly permits to be made or published a false report, statement or certificate as to the true financial condition of such bank, shall be punished as a Class ~~E~~ H felon."

-----MAKING FALSE ENTRIES IN BANKING ACCOUNTS

Sec. 1267. G.S. 53-130 reads as rewritten:

"*§ 53-130. Making false entries in banking accounts; misrepresenting assets and liabilities of banks.*

If any person shall willfully and knowingly subscribe to, or make, or cause to be made, any false statement or false entry in the books of any bank, or shall knowingly subscribe to or exhibit false papers, with intent to deceive any person authorized to examine into the affairs of such bank, or shall willfully and knowingly make, state or publish any false statement of the amount of the assets or liabilities of any bank, he shall be guilty of a ~~felony, and upon conviction thereof shall be imprisoned in the State's prison not less than four months nor more than 10 years.~~ Class H felony."

-----FALSE CERTIFICATION OF A CHECK

Sec. 1268. G.S. 53-131 reads as rewritten:

"*§ 53-131. False certification of a check.*

Whoever, being an officer, employee, agent, or director of a bank, certifies a check drawn on such bank, and willfully fails to forthwith charge the amount thereof against the account of the drawer thereof, or willfully certifies a check drawn on such bank unless the drawer of such check has on deposit with the bank an amount of money subject to the payment of such check and equivalent to the amount therein specified, shall be guilty of a ~~felony, and upon conviction shall be fined~~ Class I felony which may include a fine not more than five thousand dollars ~~($5,000) or imprisoned in the State prison for not more than five years, or both.~~ ($5,000)."

-----RECEIVING DEPOSITS IN INSOLVENT BANKS

Sec. 1269. G.S. 53-132 reads as rewritten:

"*§ 53-132. Receiving deposits in insolvent banks.*

Any person, being an officer or employee of a bank, who receives, or being an officer thereof, permits an employee to receive money, checks, drafts, or other property as a deposit therein when he has knowledge that such bank is insolvent, shall be guilty of a ~~felony, and upon conviction thereof shall be fined~~ Class I felony which may include a fine not more than five thousand dollars ~~($5,000) or imprisoned in the State prison not more than five years, or both.~~ ($5,000). Provided, that in any indictment hereunder, insolvency shall not be deemed to include insolvency as defined under paragraph d of subdivision (3) in the definition of insolvency under G.S. 53-1."

-----MAINTENANCE OF RECORDS AND ASSETS

Sec. 1270. G.S. 58-7-50(c) reads as rewritten:

"(c) The removal from this State of all or a material part of the records or assets of a domestic insurer that has its home or principal office outside this State except pursuant to a plan of merger or consolidation approved by the Commissioner under or for such reasonable purposes and periods of time as may be approved by the Commissioner in writing in advance of such removal, or concealment of such records or assets or material part thereof from the Commissioner is prohibited. Any person who, without the prior approval of the Commissioner, removes or attempts to remove such records or assets or such material part thereof from the office or offices in which they are required to be kept and maintained under subsection (a) of this section or who conceals or attempts to conceal such records from the Commissioner, in violation of this subsection, shall be guilty of a Class J I felony. Upon any removal or attempted removal of such records or assets or upon retention of such records or assets or material part thereof outside this State, beyond the period therefor specified in the consent of the Commissioner under which consent the records were so removed thereat, or upon concealment of or attempt to conceal records or assets in violation of this section, the Commissioner may institute delinquency proceedings against the insurer pursuant to the provisions of Article 30 of this Chapter."

-----INSURANCE HOLDING COMPANIES

Sec. 1271. G.S. 58-19-50(d) reads as rewritten:

"(d) Whenever it appears to the Commissioner that any insurer or any director, officer, employee, or agent thereof has knowingly and willfully committed a violation of this Article, the Commissioner may cause criminal proceedings to be instituted by the Superior Court of Wake County against such insurer or the responsible director, officer, employee, or agent thereof. Any insurer that knowingly and willfully violates this Article may be fined not more than one thousand dollars ($1,000). Any individual who knowingly and willfully violates this Article is guilty of a Class ~~J felony and is subject to a fine in his individual capacity, imprisonment, or both, in the discretion of the court.~~ I felony."

Sec. 1272. G.S. 58-19-50(e) reads as rewritten:

"(e) Any officer, director, or employee of an insurance holding company system who knowingly and willfully subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the Commissioner in the performance of his duties under this Article, is guilty of a Class ~~J felony, and is subject to a fine, imprisonment, or both, in the discretion of the court.~~ I felony. Any fines imposed shall be paid by the officer, director, or employee in his individual capacity."

-----FRATERNAL BENEFIT SOCIETIES; PENALTIES

Sec. 1273. G.S. 58-24-180(e) reads as rewritten:

"(e) Any person who willfully makes any false statement under oath in any verified report or declaration that is required by law from fraternal benefit societies, is guilty of ~~perjury under G.S. 14-209.~~ a Class I felony."

-----WILLFUL FAILURE TO PAY GROUP INSURANCE PREMIUMS

Sec. 1274. G.S. 58-50-40(c) reads as rewritten:

"(c) Any insurance fiduciary who violates subsection (b) of this section shall be guilty of a Class J H felony."

-----COLLECTION AGENCIES

Sec. 1275. G.S. 58-70-1 reads as rewritten:

"*§ 58-70-1. Permit from Commissioner of Insurance; penalty for violation; exception.*

No person, firm, corporation, or association shall conduct or operate a collection agency or do a collection agency business, as the same is hereinafter defined in this Article, until he or it shall have secured a permit therefor as provided in this Article. Any person, firm, corporation or association conducting or operating a collection agency or doing a collection agency business without the permit shall be guilty of a Class J I felony. Any officer or agent of any person, firm, corporation or association, who shall personally and knowingly participate in any violation of the remaining provisions of this Part shall be guilty of a misdemeanor. Provided, however, that nothing in this section shall be construed to require a regular employee of a duly licensed collection agency in this State to procure a collection agency permit."

-----MONTHLY REPORT REQUIRED; BONDSMEN

Sec. 1276. G.S. 58-71-165 reads as rewritten:

"*§ 58-71-165. Monthly report required.*

Each professional bail bondsman and surety bondsman shall file with the Commissioner of Insurance a written report in form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for the bonding service in each instance. The report shall be filed on or before the fifteenth day of each month. Within the same time, a copy of this written report must also be filed with the clerk of superior court in any county in which the bondsman is obligated on bail bonds. Any person who knowingly and willfully falsifies a report required by this section is guilty of a Class J I felony."

-----EMBEZZLEMENT OF C.O.D. SHIPMENTS

Sec. 1277. G.S. 62-273 reads as rewritten:

"*§ 62-273. Embezzlement of C.O.D. shipments.*

Property received by any motor carrier to be transported in intrastate commerce and delivered upon collection on such delivery and remittance to the shipper of the sum of money stated in the shipping instructions to be collected and remitted to the shipper, and the money collected upon delivery of such party, is hereby declared to be held in trust by any carrier having possession thereof or the carrier making the delivery or collection, and upon failure of any such carrier to account for the property so received, either to the shipper to whom the collection is payable or the carrier making delivery to any carrier handling the property or making the collection, within 15 days after demand in writing by the shipper, or carrier, or upon failure of the delivering carrier to remit the sum so directed to be collected and remitted to the shipper, within 15 days after collection is made, shall be prima facie evidence that the property so received, or the funds so received, has been wilfully converted by such carrier to its own use, and the carrier so offending shall be guilty of a Class H felony ~~and upon conviction shall be punished by fine or imprisonment, or both, in the discretion of the court,~~ and such carrier may be indicted, tried, and punished in the county in which such shipment was delivered to the carrier or in any other county into or through which such shipment was transported by such carrier."

-----TAKING OF AIRCRAFT MADE CRIME OF LARCENY

Sec. 1278. G.S. 63-25 reads as rewritten:

"*§ 63-25. Taking of aircraft made crime of larceny.*

Any person who, under circumstances not constituting larceny shall, without the consent of the owner, take, use or operate or cause to be taken, used or operated, an airplane or other aircraft or its equipment, for his own profit, purpose or pleasure, steals the same, is guilty of ~~larceny and is punishable accordingly.~~ a Class H felony."

-----OPERATION OF AIRCRAFT WHILE IMPAIRED

Sec. 1279. G.S. 63-27(e) reads as rewritten:

"(e) Punishment. -- A person violating this section shall be guilty of a misdemeanor and shall be punished by imprisonment of not more than two years or a fine not to exceed one thousand dollars ($1,000) or both. Provided, however, for a second and all subsequent convictions of this section, a person shall be guilty of a Class ~~J~~ I felony."

-----INJURY BY OPERATION OF AN AIRCRAFT WHILE IMPAIRED

Sec. 1280. G.S. 63-28(d) reads as rewritten:

"(d) Punishment.--Violation of this section is a Class ~~H~~ F felony."

-----FAILURE TO DEPOSIT TRUST FUNDS

Sec. 1281. G.S. 65-71(a) reads as rewritten:

"(a) Except as provided in this subsection, a person violating any provisions of this Article, of any order or rule promulgated under this Article, or of any license issued by the Commission is guilty of a misdemeanor and shall be fined, imprisoned, or both, in the discretion of the court. Each failure to deposit funds in a trust fund in accordance with this Article is a separate offense. A person who has failed to deposit funds in a trust fund in accordance with this Article and whose delinquent deposits equal or exceed twenty thousand dollars ($20,000) is guilty of a Class J I felony."

-----BOND AND TRUST ACCOUNT REQUIRED

Sec. 1282. G.S. 66-135(d) reads as rewritten:

"(d) Violations of subsections (a) or (b) of this section shall constitute a Class J I felony."

-----CREDIT REPAIR BUSINESS

Sec. 1283. G.S. 66-225(f) reads as rewritten:

"(f) The violation of any provision of this Article shall constitute an unfair trade practice under G.S. 75-1.1 and the violation of any provision of this Article shall constitute a Class J I felony."

-----ANTITRUST INVESTIGATIONS; FALSE SWEARING

Sec. 1284. G.S. 75-12 reads as rewritten:

"*§ 75-12. Refusal to furnish information; false swearing.*

Any corporation or person unlawfully refusing or willfully neglecting to furnish the information required by this Chapter, when it is demanded as herein provided, shall be guilty of a misdemeanor and fined not less than one thousand dollars ($1,000): Provided, that if any corporation or person shall in writing notify the Attorney General that it objects to the time or place designated by him for the examination or inspection provided for in this Chapter, it shall be his duty to apply to a justice or judge of the appellate or superior court division, who shall fix an appropriate time and place for such examination or inspection, and such corporation or person shall, in such event, be guilty under this section only in the event of its failure, refusal or neglect to appear at the time and place so fixed by the judge and furnish the information required by this Chapter. False swearing by any person examined under the provisions of this Chapter ~~shall constitute perjury, and the person guilty of it shall be punishable as in other cases of perjury.~~ is a Class I felony."

-----MEDICAL WASTE

Sec. 1285. G.S. 75A-18(d)(2) reads as rewritten:

"(2) Willfully violates G.S. 75A-10(d) and in so doing releases medical waste that creates a substantial risk of physical injury to any person who is not a participant in the offense

is guilty of a Class ~~I~~ F felony ~~punishable by imprisonment,~~ which may include a fine not to exceed fifty thousand dollars ~~($50,000) per day of violation, or both in the discretion of the court.~~ ($50,000) per day of violation."

-----RICO FALSE TESTIMONY

Sec. 1286. G.S. 75D-7 reads as rewritten:

"§ *75D-7. False testimony.*

False testimony as to any material fact by any person examined under the provisions of this Chapter shall constitute perjury and a conviction shall be punishable as in other cases of perjury as a Class ~~"H"~~ F felony."

-----NAVIGABLE WATERS; CERTAIN PRACTICES REGULATED

Sec. 1287. G.S. 76-40(a1)(2) reads as rewritten:

"(2) A person who willfully violates this subsection and in so doing releases medical waste that creates a substantial risk of physical injury to any person who is not a participant in the offense is guilty of a Class ~~I~~ F felony ~~punishable by imprisonment,~~ which may include a fine not to exceed fifty thousand dollars ~~($50,000) per day of violation, or both in the discretion of the court.~~ ($50,000) per day of violation."

-----REMEDIES FOR VIOLATION; CRIMINAL PENALTY

Sec. 1288. G.S. 78C-78(c) reads as rewritten:

"(c) An athlete agent commits an offense if the agent knowingly violates G.S. 78C-72(a) or G.S. 78C-76. An offense under this subsection shall be punished as a Class ~~J~~ I felony."

-----REGISTRAR REQUIRED; PROJECT BROKER

Sec. 1289. G.S. 93A-58(b) reads as rewritten:

"(b) A time share registrar shall be guilty of a Class ~~J~~ I felony if he knowingly or recklessly fails to record or cause to be recorded a time share instrument as required by this Article.

A person responsible as general partner, corporate officer, joint venturer or sole proprietor of the developer of a time share project shall be guilty of a Class I felony if he intentionally allows the offering for sale or the sale of time share to purchasers without first designating a time share registrar."

-----HAZARDOUS SUBSTANCE TRADE SECRET INFORMATION

Sec. 1290. G.S. 95-197(c) reads as rewritten:

"(c) The Commissioner of Labor and the Fire Chief shall protect from disclosure any or all information coming into either or both of their possession when such information is marked by the employer as confidential, and they shall return all information so marked to the employer at the conclusion of their determination by the Commissioner of Labor. Any person who has access to any hazardous substance trade secret solely pursuant to this section and

who discloses it knowing it to be a hazardous substance trade secret to any person not authorized to receive it shall be guilty of a Class ~~J~~ I felony, and if knowingly or negligently disclosed to any person not authorized, shall be subject to civil action for damages and injunction by the owner of the hazardous substance trade secret, including, without limitation, actions under Article 24 of Chapter 66 of the General Statutes."

-----FORGING OR COUNTERFEITING REVENUE STAMPS

Sec. 1291. G.S. 105-113.34 reads as rewritten:

"*§ 105-113.34. Forging or counterfeiting revenue stamps.*

Any person who falsely or fraudulently makes, forges, alters or counterfeits, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited, any stamps prepared or prescribed by the Secretary under the authority of this Article, or who knowingly and wilfully utters, publishes, passes or tenders as true, any such false, altered, forged or counterfeited stamps for the purpose of evading the tax levied by this Article, shall be guilty of a Class I felony, ~~and upon conviction thereof shall be fined~~ which may include a fine not more than two thousand dollars ~~($2,000) or imprisoned in the State prison for a term of not more than five years, or both, in the discretion of the court.~~ ($2,000).

If any person secures, manufactures or causes to be secured, or manufactured, or has in his possession any stamp or any counterfeit impression device not prescribed or authorized by the Secretary, such person shall be guilty of a ~~felony and subject to the punishment above provided for in the first paragraph of this section.~~ Class I felony."

-----PENALTIES FOR TAX LAW VIOLATIONS

Sec. 1292. G.S. 105-236(7) reads as rewritten:

"(7) Attempt to Evade or Defeat Tax. -- Any person who willfully attempts, or any person who aids or abets any person to attempt in any manner to evade or defeat any tax imposed by this Subchapter of the General Statutes, or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a Class I felony ~~punishable by imprisonment up to five years,~~ which may include a fine up to twenty-five thousand dollars ~~($25,000), or both,~~ ($25,000)."

Sec. 1293. G.S. 105-236(9a) reads as rewritten:

"(9a) Aid or Assistance. -- Any person, pursuant to or in connection with the revenue laws, who willfully aids, assists in, procures, counsels, or advises the preparation, presentation, or filing of a return, affidavit, claim, or any other document that he knows is fraudulent or false as to any material matter, whether or not the falsity or fraud is

with the knowledge or consent of the person authorized or required to present or file the return, affidavit, claim, or other document, shall be guilty of a Class J I felony ~~punishable by imprisonment up to three years,~~ which may include a fine up to ten thousand dollars ~~($10,000), or both,~~ ($10,000)."

-----DENIAL, REVOCATION, AND SUSPENSION OF LICENSE

Sec. 1294. G.S. 106-145.6(b) reads as rewritten:

"(b) Criminal Sanctions. -- It is unlawful to engage in wholesale distribution in this State without a wholesale distributor license or to violate any other provision of this Article. A person who violates this Article commits a Class H felony ~~and is punishable in accordance with G.S. 14-1.1~~. A fine imposed for a violation of this Article may not exceed two hundred fifty thousand dollars ($250,000)."

-----SALE OF TUBERCULAR ANIMAL A FELONY

Sec. 1295. G.S. 106-350 reads as rewritten:

"*§ 106-350. Sale of tubercular animal a felony.*

Any person or persons who shall willfully and knowingly sell or otherwise dispose of any animal or animals known to be affected with tuberculosis without permission as provided for in G.S. 106-338 shall be guilty of a ~~felony, and punishable by imprisonment of not less than one year or not more than five years in the State prison.~~ Class I felony."

-----DAMAGING DIPPING VATS A FELONY

Sec. 1296. G.S. 106-363 reads as rewritten:

"*§ 106-363. Damaging dipping vats a felony.*

Any person or persons who shall willfully damage or destroy by any means any vat erected, or in the process of being erected, as provided for tick eradication, shall be guilty of a ~~felony and upon conviction shall be imprisoned not less than two years nor more than 10 years in the State prison.~~ Class H felony."

-----ISSUANCE OF FALSE COMMODITY RECEIPT A FELONY

Sec. 1297. G.S. 106-443 reads as rewritten:

"*§ 106-443. Issuance of false receipt a felony; punishment.*

The manager of any warehouse, or any agent, employee, or servant, who issues or aids in issuing a receipt for cotton or other agricultural commodity without knowing that such cotton or other agricultural commodity has actually been placed in the warehouse under the control of the manager thereof shall be guilty of a Class I felony, ~~and upon conviction be punished for each offense by imprisonment in the State penitentiary for a period of not less than one or more than five years, or by~~ which may include a fine not exceeding 10 times the market value of the cotton or other agricultural commodity thus represented as having been stored."

-----INSPECTION OF PACKING PLANT; BRIBERY

Sec. 1298. G.S. 106-549.26 reads as rewritten:

"*§ 106-549.26. Inspection of establishment; bribery of or malfeasance of inspector.*

The Commissioner or his authorized representative shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, fallow deer, horses, mules, and other equines the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to stamp, mark, tag or label any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this and the subsequent Article and by the rules and regulations to be prescribed by said Board and said Board shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this and the subsequent Article, and all inspections and examinations made under this Article shall be such and made in such manner as described in the rules and regulations prescribed by said Board not inconsistent with the provisions of this Article and as directed by the Commissioner or his authorized representative. Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, or any other officer or employee of this State authorized to perform any of the duties prescribed by this and the subsequent Article or by the rules and regulations of the Board or by the Commissioner or his authorized representative any money or other thing of value, with intent to influence said inspector, or other officer or employee of this State in the discharge of any duty herein provided for, shall be deemed guilty of a Class I felony ~~and, upon conviction thereof, shall be punished by~~ which may include a fine not less than five hundred dollars ($500.00) nor more than ten thousand dollars ~~($10,000) and by imprisonment for not less than one year nor more than three years~~; ($10,000); and any inspector, or other officer or employee of this State authorized to perform any of the duties prescribed by this Article who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be

deemed guilty of a Class I felony and shall, upon conviction thereof, be summarily discharged from office and ~~shall~~ may be punished by a fine not less than five hundred dollars ($500.00) nor more than ten thousand dollars ~~($10,000) and by imprisonment for not less than one year nor more than three years.~~ ($10,000)."

-----FRAUDULENT MISREPRESENTATION

Sec. 1299. G.S. 108A-53(a) reads as rewritten:

"(a) Any person, whether provider or recipient or person representing himself as such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which he is not entitled in the amount of two thousand dollars ($2,000) or less shall be guilty of a misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which he is not entitled in an amount more than two thousand dollars ($2,000) shall be guilty of a ~~felony and shall be punished as in cases of larceny.~~ Class I felony."

-----PROTECTION OF PATIENT PROPERTY

Sec. 1300. G.S. 108A-60(b) reads as rewritten:

"(b) A violation of subdivision (a)(1) of this section shall be a misdemeanor punishable by a fine of not more than two thousand dollars ($2,000) or imprisonment for not more than two years, or both, in the discretion of the court. A violation of subdivision (a)(2) of this section shall be a Class ~~I~~ H felony."

-----TAKING POLLUTED SHELLFISH

Sec. 1301. G.S. 113-209(d) reads as rewritten:

"(d) Any person violating any provisions of this section shall be guilty of a Class I felony ~~and upon conviction shall, at a minimum, be fined~~ which may include a fine no less than two thousand five hundred dollars ~~($2,500) or be imprisoned for no less than one year. A second or subsequent conviction under this section within two years of a preceding conviction shall be punished by imprisonment for no less than three years.~~ ($2,500). Upon conviction of any person for a violation of this section, the court shall order the confiscation of all weapons, equipment, vessels, vehicles, conveyances, fish, and other evidence, fruit, and instrumentalities of the offense. The confiscated property shall be disposed of in accordance with G.S. 113-137."

-----BRIBERY, ETC

Sec. 1302. G.S. 120-86(e) reads as rewritten:

"(e) Violation of subsection (a) or (b) is a Class ~~I~~ F felony. Violation of subsection (c) is not a crime but is punishable under G.S. 120-103."

-----CRIMINAL VIOLATION OF HAZARDOUS WASTE LAW

Sec. 1303. G.S. 130A-26.1(f) reads as rewritten:

"(f) Any person who knowingly and willfully does any of the following shall be guilty of a Class I felony, ~~punishable by~~ which may include a fine not to exceed one hundred thousand dollars ($100,000) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred thousand dollars ($500,000) for each period of 30 days during which a violation ~~continues, or by imprisonment not to exceed five years, or by both;~~ continues:

(1) Transports or causes to be transported any hazardous waste identified or listed under G.S. 130A-294(c) to a facility which does not have a permit or interim status under G.S. 130A-294(c) or 42 U.S.C. § 6921, *et seq.*

(2) Transports or causes to be transported such hazardous waste with the intent of delivery to a facility without a permit.

(3) Treats, stores, or disposes of such hazardous waste without a permit or interim status under G.S. 130A-294(c) or 42 U.S.C. § 6921, *et seq.*, or in knowing violation of any material condition or requirement or such permit or applicable interim status rules."

Sec. 1304. G.S. 130A-26.1(g) reads as rewritten:

"(g) Any person who knowingly and willfully does any of the following shall be guilty of a Class ~~J~~ I felony, ~~punishable by~~ which may include a fine not to exceed one hundred thousand dollars ($100,000) per day of violation, provided that the fine shall not exceed a cumulative total of five hundred thousand dollars ($500,000) for each period of 30 days during which a violation ~~continues, or by imprisonment not to exceed three years, or by both;~~ continues:

(1) Transports or causes to be transported hazardous waste without a manifest as required under G.S. 130A-294(c).

(2) Transports hazardous waste without a United States Environmental Protection Agency identification number as required by rules promulgated under G.S. 130A-294(c).

(3) Omits material information or makes any false material statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with rules promulgated under G.S. 130A-294(c).

(4) Generates, stores, treats, transports, disposes of, exports, or otherwise handles any hazardous waste or any used oil burned for energy recovery and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with rules promulgated under G.S. 130A-294(c)."

Sec. 1305. G.S. 130A-26.1(i)(1) reads as rewritten:

"(1) Any person who knowingly transports, treats, stores, disposes of, or exports any hazardous waste or used oil regulated under G.S. 130A-294(c) in violation of subsection (f) or (g) of this section, who knows at the time that he thereby places another person in imminent danger of death or personal bodily injury shall be guilty of a Class ~~H~~ C felony ~~punishable by imprisonment not to exceed 10 years or by~~ which may include a fine not to exceed two hundred fifty thousand dollars ($250,000) per day of violation, provided that this fine shall not exceed a cumulative total of one million dollars ($1,000,000) for each period of 30 days during which a violation ~~continues, or by both, in the discretion of the court.~~ continues."

-----CERTAIN VACCINE DIVERSIONS MADE FELONY

Sec. 1306. G.S. 130A-431 reads as rewritten:

"*§ 130A-431. Certain vaccine diversions made felony.*

Any person who (i) receives a vaccine designated by the manufacturer for use in the State, (ii) directly or indirectly diverts the vaccine to a location outside the State, and (iii) directly or indirectly profits as a result of this diversion, is guilty of a Class ~~J felony, punishable by imprisonment up to three years, or a fine, or both.~~ I felony. The fine shall be twenty-five dollars ($25.00) per dose of the diverted vaccine or one hundred thousand dollars ($100,000), whichever is less. A health care professional convicted of a ~~Class J~~ Class I felony pursuant to this section who is found by the court to have diverted more than 300 doses of covered vaccine shall have his license suspended for one year."

-----BID-RIGGING

Sec. 1307. G.S. 133-31 reads as rewritten:

"*§ 133-31. Perjury; punishment.*

Any person who shall willfully commit perjury in any affidavit taken pursuant to this Article or rules pursuant thereto shall be guilty of a felony and shall be punished as a Class ~~H~~ I felon."

-----MALFEASANCE OF OFFICERS AND EMPLOYEES OF DOT

Sec. 1308. G.S. 136-13(c) reads as rewritten:

"(c) The violation of any of the provisions of this section shall be cause for forfeiture of public office and shall be a Class H felony ~~punishable by~~ which may include a fine of not more than twenty thousand dollars ($20,000) or three times the monetary equivalent of the thing of value whichever is ~~greater, or imprisonment of not more than 10 years, or both such fine and imprisonment.~~ greater."

-----DOT CONFLICT OF INTEREST REGULATIONS

Sec. 1309. G.S. 136-14 reads as rewritten:

"*§ 136-14. Members not eligible for other employment with Department; no sales to Department by employees; members not to sell or trade property with Department; profiting from official position.*

No member of the Board of Transportation shall be eligible to any other employment in connection with the Department of Transportation, and no member of the Board of Transportation or any salaried employee of the Department of Transportation shall furnish or sell any supplies or materials, directly or indirectly, to the Department of Transportation, nor shall any member of the Board of Transportation, directly or indirectly, engage in any transaction involving the sale of or trading of real or personal property with the Department of Transportation, or profit in any manner by reason of his official action or his official position, except to receive such salary, fees and allowances as by law provided. Violation of this section shall be a Class I felony ~~punishable by~~ which may include a fine of not more than twenty thousand dollars ($20,000), or three times the value of the ~~transaction, or by both fine and imprisonment.~~ transaction."

-----NO BID COLLUSION

Sec. 1310. G.S. 143-54 reads as rewritten:

"*§ 143-54. Certification that bids were submitted without collusion.*

The Director of Administration shall require bidders to certify that each bid is submitted competitively and without collusion. False certification ~~shall be punishable as in cases of perjury.~~ is a Class I felony."

-----DOA/ABC CONFLICT OF INTEREST REGULATIONS

Sec. 1311. G.S. 143-63 reads as rewritten:

"*§ 143-63. Financial interest of officers in sources of supply; acceptance of bribes.*

Neither the Secretary of Administration, nor any assistant of his, nor any member of the Advisory Budget Commission shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in the purchase of, or contract for, any materials, equipment or supplies, nor in any firm, corporation, partnership or association furnishing any such supplies, materials or equipment to the State government, or any of its departments, institutions or agencies, nor shall such Secretary, assistant, or

member of the Commission accept or receive, directly or indirectly, from any person, firm or corporation to whom any contract may be awarded, by rebate, gifts or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future reward or compensation. Any violation of this section shall be deemed a ~~felony and shall be punishable by fine or imprisonment, or both.~~ Class F felony. Upon conviction thereof, any such Secretary, assistant or member of the Commission shall be removed from office."

-----PROHIBITED DISPOSAL OF MEDICAL WASTE

Sec. 1312. G.S. 143-214.2A(c)(2) reads as rewritten:

"(2) A person who willfully violates this section and in so doing releases medical waste that creates a substantial risk of physical injury to any person who is not a participant in the offense is guilty of a Class ~~I~~ F felony ~~punishable by imprisonment,~~ which may include a fine not to exceed fifty thousand dollars ($50,000) per day of ~~violation, or both in the discretion of the court,~~ violation."

-----WATER QUALITY: CRIMINAL PENALTIES

Sec. 1313. G.S. 143-215.6B(g) reads as rewritten:

"(g) Any person who knowingly and willfully violates any (i) classification, standard, or limitation established in rules adopted by the Commission pursuant to G.S. 143-214.1, 143-214.2, or 143-215; (ii) term, condition, or requirement of a permit issued pursuant to this Part, including permits issued pursuant to G.S. 143-215.1, pretreatment permits issued by local governments, and laboratory certifications; or (iii) term, condition, or requirement of a special order or other appropriate document issued pursuant to G.S. 143-215.2; and any person who knowingly and willfully fails to apply for or to secure a permit required by G.S. 143-215.1 shall be guilty of a Class ~~I~~ I felony, ~~punishable by~~ which may include a fine not to exceed one hundred thousand dollars ($100,000) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred thousand dollars ($500,000) for each period of 30 days during which a violation ~~continues, or by imprisonment not to exceed three years, or by both.~~ continues. For the purposes of this subsection, the phrase 'knowingly and willfully' shall mean intentionally and consciously as the courts of this State, according to the principles of common law interpret the phrase in the light of reason and experience."

Sec. 1314. G.S. 143-215.6B(h)(1) reads as rewritten:

"(1) Any person who knowingly violates any: (i) classification, standard, or limitation established in rules adopted by the Commission pursuant to G.S. 143-214.1, 143-214.2,

143-215; (ii) term, condition, or requirement of a permit issued pursuant to this Part, including permits issued pursuant to G.S. 143-215.1, pretreatment permits issued by local governments, and laboratory certifications; or (iii) term, condition, or requirement of a special order or other appropriate document issued pursuant to G.S. 143-215.2; and any person who knowingly fails to apply for or to secure a permit required by G.S. 143-215.1 and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury shall be guilty of a Class ~~H~~ C felony, ~~punishable by~~ which may include a fine not to exceed two hundred fifty thousand dollars ($250,000) per day of violation, provided that this fine shall not exceed a cumulative total of one million dollars ($1,000,000) for each period of 30 days during which a violation ~~continues, or by imprisonment not to exceed 10 years, or by both.~~ continues."

Sec. 1315. G.S. 143-215.6B(j) is repealed.

-----HAZARDOUS SUBSTANCES: CRIMINAL PENALTIES

Sec. 1316. G.S. 143-215.88B(e) reads as rewritten:

"(e) Any person who knowingly and willfully discharges or causes or permits the discharge of oil or other hazardous substances in violation of this Part shall be guilty of a Class ~~J~~ H felony ~~punishable by imprisonment not to exceed three years or by~~ which may include a fine to be not more than one hundred thousand dollars ($100,000) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred thousand dollars ($500,000) for each period of 30 days during which a violation ~~continues, or by both, in the discretion of the court.~~ continues. For the purposes of this subsection, the phrase 'knowingly and willfully' shall mean intentionally and consciously as the courts of this State, according to the principles of common law interpret the phrase in the light of reason and experience."

Sec. 1317. G.S. 143-215.88B(f)(1) reads as rewritten:

"(1) Any person who knowingly discharges or causes or permits the discharge of oil or other hazardous substances in violation of this Part, and who knows at that time that he places another person in imminent danger of death or serious bodily injury shall be guilty of a Class ~~H~~ C felony ~~punishable by imprisonment not to exceed 10 years or by~~ which may include a fine not to exceed two hundred fifty thousand dollars ($250,000) per day of violation, provided that this fine shall not exceed a cumulative total of one million dollars ($1,000,000) for each period of 30 days

during which a violation ~~continues, or by both, in the discretion of the court.~~ continues."

-----AIR QUALITY: CRIMINAL PENALTIES

Sec. 1318. G.S. 143-215.114B(g) reads as rewritten:

"(g) Any person who knowingly and willfully violates any classification, standard, or limitation established in the rules of the Commission pursuant to G.S. 143-215.107 or any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.108 or of a special order or other appropriate document issued pursuant to G.S. 143-215.110, shall be guilty of a Class ~~J~~ H felony, ~~punishable by~~ which may include a fine not to exceed one hundred thousand dollars ($100,000) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred thousand dollars ($500,000) for each period of 30 days during which a violation ~~continues, or by imprisonment not to exceed three years, or by both.~~ continues. For the purposes of this subsection, the phrase 'knowingly and willfully' shall mean intentionally and consciously as the courts of this State, according to the principles of common law, interpret the phrase in the light of reason and experience."

Sec. 1319. G.S. 143-215.114B(h)(1) reads as rewritten:

"(1) Any person who knowingly violates any classification, standard, or limitation established in the rules of the Commission pursuant to G.S. 143-215.107 or any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.108 or of a special order or other appropriate document issued pursuant to G.S. 143-215.110 and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury shall be guilty of a Class ~~H~~ C felony, ~~punishable by~~ which may include a fine not to exceed two hundred fifty thousand dollars ($250,000) per day of violation, provided that this fine shall not exceed a cumulative total of one million dollars ($1,000,000) for each period of 30 days during which a violation ~~continues, or by imprisonment not to exceed 10 years or by both.~~ continues."

Sec. 1320. G.S. 143-215.114B(j) is repealed.

-----ESCAPING FROM PRISON

Sec. 1321. G.S. 148-45(a) reads as rewritten:

"(a) Any person in the custody of the Department of Correction in any of the classifications hereinafter set forth who shall escape ~~or attempt to escape~~ from the State prison system, shall for the first such offense, except as provided in subsection (g) of this section, be guilty of a ~~misdemeanor and, upon conviction thereof, shall be punished by~~

~~imprisonment for not less than three months nor more than one year:~~
Class I felony:

(1) A prisoner serving a sentence imposed upon conviction of a misdemeanor;

(2) A person who has been charged with a misdemeanor and who has been committed to the custody of the Department of Correction under the provisions of G.S. 162-39;

(3) Repealed by Session Laws 1985, c. 226, s. 4, effective May 23, 1985.

(4) A person who shall have been convicted of a misdemeanor and who shall have been committed to the Department of Correction for presentence diagnostic study under the provisions of G.S. 15A-1332(c)."

Sec. 1322. G.S. 148-45(b) reads as rewritten:

"(b) Any person in the custody of the Department of Correction, in any of the classifications hereinafter set forth, who shall escape ~~or attempt to escape~~ from the State prison system, shall, except as provided in subsection (g) of this section, be punished as a Class ~~J~~ I felon.

(1) A prisoner serving a sentence imposed upon conviction of a felony;

(2) A person who has been charged with a felony and who has been committed to the custody of the Department of Correction under the provisions of G.S. 162-39;

(3) Repealed by Session Laws 1985, c. 226, s. 5, effective May 23, 1985.

(4) A person who shall have been convicted of a felony and who shall have been committed to the Department of Correction for presentence diagnostic study under the provisions of G.S. 15A-1332(c); or

(5) Any person previously convicted of escaping or attempting to escape from the State prison system."

-----INFLICTION OF SELF-INJURY TO PRISONER

Sec. 1323. G.S. 148-46.1 reads as rewritten:

"*§ 148-46.1. Inflicting or assisting in infliction of self injury to prisoner resulting in incapacity to perform assigned duties.*

Any person serving a sentence or sentences within the State prison system who, during the term of such imprisonment, willfully and intentionally inflicts upon himself any injury resulting in a permanent or temporary incapacity to perform work or duties assigned to him by the State Department of Correction, or any prisoner who aids or abets any other prisoner in the commission of such offense, shall be punished as a Class ~~H~~ I felon."

-----ABSENTEE BALLOT LAW

Sec. 1324. G.S. 163-237(c) reads as rewritten:

"(c) Fraud in Connection with Absentee Vote; Forgery. -- Any person attempting to aid and abet fraud in connection with any absentee vote cast or to be cast, under the provisions of this Article, shall be guilty of a misdemeanor. ~~Any person attempting~~ Attempting to vote by fraudulently signing the name of a regularly qualified voter ~~shall be guilty of forgery, and be punished accordingly.~~ is a Class I felony."

-----CAMPAIGN FINANCE

Sec. 1325. G.S. 163-278.53 reads as rewritten:

"*§ 163-278.53. Criminal punishment.*

Any individual, person, candidate, political committee, or treasurer who willfully and intentionally violates any of the provisions of this Article, shall be guilty of a Class ~~J~~ I felony."

Sec. 1358.1. G.S. 90-95(d)(2) reads as rewritten:

"*§ 90-95. Violations; penalties.*

(2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than two years or fined not more than two thousand dollars ($2,000), or both in the discretion of the court. If the controlled substance exceeds four tablets, capsules, or other dosage units or equivalent quantity of hydromorphone or if the quantity of the controlled substance, or combination of the controlled substances, exceeds one hundred tablets, capsules or other dosage units, or equivalent quantity, the violation shall be punishable as a Class I felony. If the controlled substance is ~~phencyclidine, or~~ one gram or more of cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocanized coca leaves or any extraction of coca leaves which does not contain cocaine or ecgonine), the violation shall be punishable as a Class I felony. If the controlled substance is phenclycidine, the violation shall be punishable as a Class I felony."

Sec. 1358.2. G.S. 14-42 and G.S. 14-67 are repealed.

Sec. 1359. This act becomes effective January 1, 1995, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated

or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 431 **CHAPTER 540**

AN ACT RECOMMENDED BY THE JUVENILE LAW STUDY COMMISSION TO INCREASE THE MAXIMUM AMOUNT THAT MAY BE RECOVERED IN STRICT LIABILITY FOR DAMAGE TO PERSON OR PROPERTY BY MINORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-538.1 reads as rewritten:

"*§ 1-538.1. Strict liability for damage to person or property by minors.*

Any person or other legal entity shall be entitled to recover actual damages suffered in an amount not to exceed a total of ~~one thousand dollars ($1,000)~~ two thousand dollars ($2,000) from the parent or parents of any minor who shall maliciously or willfully injure such person or destroy the real or personal property of such person. Parents whose custody and control have been removed by court order or by contract prior to the act complained of shall not be liable under this act. This act shall not preclude or limit recovery of damages from parents under common law remedies available in this State."

Sec. 2. This act becomes effective October 1, 1993, and applies to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 765 **CHAPTER 541**

AN ACT TO MAKE AMENDMENTS TO THE LAW OF ESCHEATS AND UNCLAIMED PROPERTY AND TO LIMIT MOLDERS' OBLIGATIONS TO RETAIN DIES, MOLDS, FORMS, OR PATTERNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116B-11 reads as rewritten:

"*§ 116B-11. Property subject to custody and control of the State.*

Personal property that is deemed unclaimed or abandoned under this Chapter is subject to the custody and control of the State if it is:

(1) Tangible. -- Tangible and physically located within the State; or

(2) Intangible. -- Intangible, and any of the following applies:

a. The last known address of the owner, as shown by the records of the holder, is within the ~~State; or~~ State.
b. The last known address of the owner as shown by the records of the holder is within a jurisdiction, the laws of which do not provide for the escheat or custodial taking of the property, and ~~the~~ either of the following applies:
   1. The domicile of the holder is within the ~~State; or~~ State.
   2. The intangible property was issued by this State, a political subdivision of this State, a business association, financial institution, or another person or entity, incorporated, organized, created, or otherwise located in this State.
c. No address of the owner appears on the records of the holder and ~~the~~ either of the following applies:
   1. The domicile of the holder is within the ~~State; or~~ State.
   2. The intangible property was issued by this State, a political subdivision of this State, a business association, financial institution, or another person or entity, incorporated, organized, created, or otherwise located in this State.
d. No address of the owner appears on the records of the holder and the domicile of the holder is not within the State, but it is proved that the last known address of the owner is in the ~~State; or~~ State.
e. ~~If the intangible property~~ It is a sum payable on a money order, a traveler's ~~check~~ check, or a similar written ~~instrument, and~~ instrument and one of the following applies:
   1. The instrument was purchased within the State, as shown by the records of the ~~holder;~~ holder.
   2. The place of purchase of the instrument is not shown in the records of the holder and the holder's principal place of business is within the ~~State; or~~ State.
   3. The place of purchase of the instruments, as shown by the records of the holder, is within a jurisdiction, the laws of which do not provide for the escheat or custodial taking of the property, and the holder's principal place of business is within the State."

Sec. 2. G.S. 116B-12 reads as rewritten:

"(a) Most Deposits and Funds. -- Any demand, ~~savings~~ savings, or matured time ~~deposit~~ deposit, other than a certificate of deposit, in a

financial ~~institution,~~ institution or any funds paid toward the purchase of shares or ~~other~~ another interest in a financial institution shall be presumed abandoned if the financial institution is unable to locate the owner and if, within the preceding five years, as to any demand deposit, or a savings or time deposit or interest having a value of one thousand dollars ($1,000) or less, or within the preceding 10 years, as to any such savings or time deposit or interest having a value of more than one thousand dollars ($1,000), the owner has not:

(1) Increased or decreased the amount of the deposit, ~~shares~~ shares, or ~~claim,~~ claim or presented to the holder the passbook, evidence of ~~deposit~~ deposit, or other appropriate record for the crediting of interest or dividends;

(2) Corresponded in writing with the holder concerning the deposit, ~~shares~~ shares, or claim;

(3) Otherwise indicated an interest in the deposit, ~~shares~~ shares, or claim as evidenced by a writing on file with the holder; or

(4) Maintained another account at the same financial institution that complies with (1), (2), or (3) above.

The financial institution shall make reasonable efforts to locate the owner and to determine whether its records disclose a different address for the owner.

(a1) Certificates of Deposit. -- A certificate of deposit issued by a financial institution shall be presumed abandoned if the financial institution is unable to locate the certificate's owner and if, within the 10-year period beginning on the initial maturity date of the certificate, the owner did not take any of the actions listed in subsection (a) of this section. The financial institution shall make the same efforts to locate a certificate's owner as it would make under subsection (a) if the certificate were a demand deposit.

(b) Written Instruments. -- Any sum payable on a check certified in the State or on any written instrument issued in the State on which a financial institution is directly liable shall be presumed abandoned if, within 10 years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

(1) Negotiated the instrument;

(2) Corresponded in writing with the financial institution concerning it; nor

(3) Otherwise indicated an interest by a writing on file with the financial institution.

(c) Traveler's Checks. -- Any sum payable on a traveler's check, money order or a similar written instrument on which a financial institution or other business association is directly liable shall be

presumed abandoned if, within 15 years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

(1) Negotiated the instrument;
(2) Corresponded in writing with the financial institution or other business association concerning it; nor
(3) Otherwise indicated an interest as indicated by a writing on file with the financial institution or other business association.

(d) Safe Deposit Box. -- Any funds or other personal property, tangible or intangible, contained in or removed from a safe deposit box or other safekeeping repository shall be presumed abandoned if the owner has not claimed the property within the period established by G.S. 53-43.7 and shall be delivered to the State Treasurer.

(e) Charges, Interest or Dividends on Abandoned Property. --

(1) Reasonable service ~~charges may be levied against deposits or accounts during the period prior to abandonment, provided those charges may~~ charges, not to exceed the charges levied against similar active deposits or ~~accounts.~~ accounts, may be imposed on inactive deposits or accounts until the date on which the amount of the deposits or accounts must be remitted to the Treasurer under G.S. 116B-31.
(2) Interest or dividends due on ~~any~~ inactive deposits, accounts, ~~funds~~ funds, or shares ~~presumed to be abandoned shall not be discontinued or diverted because of the inactivity or during the period prior to abandonment,~~ shall be paid until the date on which the amount of the deposits, accounts, or funds, or the shares must be remitted or delivered to the Treasurer under G.S. 116B-31."

Sec. 3. G.S. 116B-13 reads as rewritten:

"§ *116B-13. Property held by life insurers.*

(a) Funds Owed under a Policy or Contract. -- Any funds held or owing by a life insurer that are due and payable under any life or endowment insurance policy or annuity contract which has matured or terminated shall be presumed abandoned if they have not been claimed or paid within ~~10~~ five years after becoming due or payable as established from the insurer's records. Funds payable according to the insurer's records are deemed due and payable although the policy or contract has not been surrendered as required. The insurer shall make reasonable efforts to locate the insured or annuitant and to determine whether its records disclose a different address for the insured or annuitant.

(b) Presumption of Address of Beneficiary. -- If a person other than the insured or annuitant is entitled to the funds and no address of the person is known to the insurer or if it is not definite and certain

from the records of the insurer what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the insurer.

(c) Presumption of Maturity. -- A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured, and the proceeds are deemed to be due and payable if the policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has, within the preceding five years, assigned, readjusted or paid premiums on the policy, negotiated a dividend check, made payments on a loan, or corresponded in writing with the life insurer concerning the policy.

(d) Negotiable Instruments. -- Any sum for the payment of a claim under an insurance policy or contract, which sum is payable on a negotiable instrument on which the insurer is the maker or drawer shall be presumed abandoned if, within ~~10~~ five years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

(1) Negotiated the instrument;

(2) Corresponded in writing with the insurer concerning it; nor

(3) Otherwise indicated an interest by a writing on file with the insurer."

Sec. 4. Article 2 of Chapter 116B of the General Statutes is amended by adding a new section to read:

"*§ 116B-22. Certain intangible property.*

(a) Property. -- Securities, principal, interest and dividends accruing to the securities, and other property that is subject to the custody and control of the State by application of G.S. 116B-11(2)b.2. or (2)c.2. shall be presumed abandoned if, within the shorter of the following periods after the date set by the issuer of the property for paying or delivering the property to its owner, the owner has not claimed the property or corresponded in writing with the holder:

(1) Five years.

(2) The time period set by another state for taking custody of the property pursuant to that state's unclaimed property laws.

(b) Income and Charges. -- Any interest, dividends, or other earnings due on property presumed abandoned under subsection (a) of this section must be paid during the period prior to abandonment. Charges that are authorized by statute or by a contract may be deducted from the property during that period."

Sec. 5. G.S. 116B-28 reads as rewritten:

"*§ 116B-28. Notice by holders to owners required.*

(a) Insurers. -- Every insurer required to file a report pursuant to G.S. 116B-29 shall determine, prior to March 1 of each year, all owners who, as of the preceding December 31, appear entitled to property ~~of the~~ having a value of fifty dollars ($50.00) or ~~more,~~ more and presumed abandoned under this ~~Chapter,~~ Chapter and, on or before March 1, shall mail, first class postage prepaid, a notice to the last known address of each ~~such~~ owner.

(b) Other Holders. -- Every holder, other than insurers, required to file a report pursuant to G.S. 116B-29 shall determine, prior to November 1 of each year, all owners who, as of the preceding June 30, appear entitled to property ~~of the~~ having a value of fifty dollars ($50.00) or ~~more,~~ more and presumed abandoned under this ~~Chapter,~~ Chapter and, on or before November 1, shall mail, first class postage prepaid, a notice to the last known address of each ~~such~~ owner. A holder need not mail a notice to an owner for which the holder has no address.

(c) Contents. -- Each notice required by this section shall ~~contain:~~ contain all of the following:

(1) A statement that, according to the records of the holder, property is being held to which the addressee appears entitled and the amount or description of the ~~property;~~ property.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the ~~holder;~~ holder.

(3) A statement ~~that, if~~ that unless the owner presents a satisfactory proof of claim ~~is not presented by the owner~~ to the holder by the following February 1, if the holder is not an insurer, or ~~if the holder is an insurer, by the following November 1,~~ October 1, if the holder is an insurer, the holder will send the property ~~will be placed in the custody of the State~~ to the Treasurer, to whom all further claims ~~shall~~ must be directed.

(d) Charges for Notices. -- The holder shall be entitled to deduct from the property of each owner to whom notice is sent an amount not to exceed fifty cents (50¢) to defray the expense of mailing the notice. If the property is other than cash in the possession of the holder, the holder may submit to the Escheat Fund, with the certification ~~hereinafter provided for,~~ required by subsection (e) of this section, a sworn itemized statement of charges for notices mailed, not to exceed fifty cents (50¢) per notice, which shall be paid by the Escheat Fund within 30 days following receipt of the statement. The Escheat Fund shall charge the accounts of the respective owners with any charges so paid to holders.

(e) Certification of Mailing; Penalties; Right of Owners. -- Every holder filing a report pursuant to G.S. 116B-29 shall certify to the Treasurer therewith that the notices required by subsections (a) and (b) of this section have been mailed to the last known address of every owner named in the report. Failure or refusal to certify after written demand by the Treasurer or filing a false certification shall be a misdemeanor, punishable, upon conviction, by a fine of not less than five hundred dollars ($500.00) nor more than five thousand dollars ($5,000) as the court, in its discretion, shall determine. Any owner who has suffered loss or damage by reason of the failure of a holder to mail the notice required by this section may recover actual loss or damage from the holder in an appropriate action at law.

(f) Other Notice. -- All holders shall make reasonable efforts to locate and communicate with the owner prior to filing the report required by G.S. ~~116B-30~~ 116B-29 in order to prevent abandonment from being presumed, including the exercise of due diligence to determine whether ~~he~~ the holder possesses a different address for the owner.

~~(g) Date of Notice. -- The Department of Revenue may use the dates prescribed in subsection (a) of this section for insurers in mailing notices of unclaimed property.~~"

Sec. 6. G.S. 116B-29 reads as rewritten:

"*§ 116B-29. Report of abandoned property by holder to Treasurer.*

(a) Reports to Treasurer. -- Every ~~insurer holding property presumed abandoned under the provisions of one or more of the following sections, G.S. 116B-13, 116B-14, 116B-16, 116B-17, 116B-20, or 116B-21, shall report and make payment to the Treasurer in accordance with G.S. 116B-31. Every other person holding funds or other~~ holder of property, tangible or intangible, presumed abandoned under this Chapter shall report to the State Treasurer with respect to that property.

(b) Contents. -- The report shall be verified and shall include:

(1) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of fifty dollars ($50.00) or more;

(2) In the case of unclaimed funds of an insurer, the full name of the insured or annuitant and his last known address according to the insurer's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under fifty dollars ($50.00) each may be reported in the aggregate;

(4) A certification that the property reported has been held for the period required by Article 2 of this Chapter; and

(5) Other information which the Treasurer prescribes by rule.

(c) Names of Prior Holders. -- If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) Time of Filing. -- The report of holders other than insurers shall be filed before March 1 of each year and cover property presumed abandoned as of the prior June ~~30, but the~~ 30. The report of insurers shall be filed before ~~May 1~~ November 1 of each year and cover property presumed abandoned as of the prior December 31. The Treasurer, in his discretion, may postpone the reporting date for a period not exceeding six months upon written request by any person required to file a report. ~~The Department of Revenue may use the dates prescribed in this subsection for insurers in filing reports of unclaimed property with the State Treasurer.~~

(e) Verification. -- Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer. Notwithstanding the above, any person authorized to bind the appropriate entity may make this verification.

(f) Negative Report. -- If a holder receives a report form from the State Treasurer and holds no abandoned property, then a negative report must be filed."

Sec. 7. G.S. 116B-31 reads as rewritten:

"*§ 116B-31. Payment or delivery of abandoned property.*

(a) ~~Insurers. -- Every insurer~~ Due Date. -- A holder shall remit or deliver to the Treasurer ~~on or before December 1,~~ with the report filed under G.S. 116B-29 any property ~~deemed abandoned under the provisions of this Chapter and reported as required by G.S. 116B-29,~~ required to be included in the report. These remittances shall be made payable to the Treasurer.

~~(b) Other Holders. -- All other holders shall remit or deliver to the Treasurer with the report required to be filed by G.S. 116B-29 any property deemed abandoned under the provisions of this Chapter.~~

(c) Tangible Personal Property. -- Prior to the delivery of any tangible personal property to the Treasurer, the holder shall report to the Treasurer the nature, condition and approximate value of each article of such property. The Treasurer may determine that delivery of specific tangible personal property is not in the best interest of the State, either because the sum or value is too small or for other good

reason. The Treasurer shall notify the holder of the property of his determination and may refuse to accept delivery and custody of that property."

Sec. 8. G.S. 116B-34 reads as rewritten:

"§ *116B-34. Periods of limitation not a bar.*

The expiration of any period of time specified by ~~statutes~~ statutes, contract, or court order, during which a claim may be made or an action or a proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report under this Chapter or to pay or deliver abandoned property to the Treasurer."

Sec. 9. Article 13 of Chapter 66 of the General Statutes is amended by adding a new section to read:

"§ *66-67.3. Disposal of dies, molds, forms, and patterns.*

(a) Definitions. -- The following definitions apply in this section:

(1) Customer. -- Either of the following:

a. A person who causes or caused a molder to fabricate, cast, or otherwise make a die, mold, form, or pattern.

b. A person who causes or caused a molder to use a die, mold, form, or pattern to manufacture, assemble, or otherwise make a product.

(2) Molder. -- A tool or die maker or any other person who does either of the following:

a. Fabricates, casts, or otherwise makes a die, mold, form, or pattern.

b. Uses a die, mold, form, or pattern to manufacture, assemble, or otherwise make a product.

(b) Ownership and Transfer. -- A customer has all rights, title, and interest to a die, mold, form, or pattern made or used by a molder on behalf of the customer unless an agreement provides otherwise. If the customer does not claim possession of the die, mold, form, or pattern from the molder within three years after the last time it is used, the molder may choose to obtain all rights, title, and interest to the die, mold, form, or pattern by operation of law unless a written agreement provides otherwise.

(c) Procedure. -- If a molder chooses to have all rights, title, and interest to a die, mold, form, or pattern transferred to the molder by operation of law, the molder must send a written notice, by registered mail, return receipt requested, to the customer and to any known secured creditor. The notice must state that the molder intends to terminate the customer's rights, title, and interest in a mold, die, form, or pattern by having those rights, title, and interest transferred to the molder by operation of law pursuant to this section. The notice

to the customer must be sent to the customer's last known address or, if the customer has designated in writing a different address for receipt of the notice, to the designated address. If a return receipt cannot be obtained for a notice that is mailed, the molder may give notice by publication in accordance with G.S. 1A-1, Rule 4(j1). The rights, title, and interest in a die, mold, form, or pattern are transferred by operation of law to a molder who gives notice as required by this section unless, within 30 days after the date the molder receives acknowledgement of the return receipt of a notice that is mailed or 45 days after the date of first publication of a notice made by publication, the customer takes possession of the die, mold, form, or pattern, or makes other contractual arrangements with the molder for taking possession of or for storing the die, mold, form, or pattern.

(d) Use Upon Transfer. -- A molder to whom the rights, title, and interest in a die, mold, form, or pattern is transferred by operation of law under this section may destroy or otherwise dispose of the die, mold, form, or pattern as the molder's own property without any risk of liability to the customer. The molder may not use the die, mold, form, or pattern for any other purpose.

(e) Scope. -- This section does not affect a right of a customer under federal patent or copyright law or any state or federal law pertaining to unfair competition."

Sec. 10. Sections 1 through 8 of this act become effective December 1, 1993. The remaining sections of this act are effective upon ratification. Sections 1 through 8 of this act apply to property held before, on, or after the effective date, regardless of when the property became or becomes presumptively abandoned. Section 9 applies to dies, molds, forms, or patterns made or used before, on, or after the effective date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 14 **CHAPTER 542**

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR (1) CAPITAL IMPROVEMENTS FOR THE UNIVERSITY OF NORTH CAROLINA, (2) GRANTS TO COMMUNITY COLLEGES FOR CAPITAL IMPROVEMENTS, (3) GRANTS, LOANS, AND REVOLVING LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND WATER CONSERVATION

PROJECTS, AND (4) CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR NEW AND EXISTING STATE PARKS AND RECREATION AREAS.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "Education, Clean Water, and Parks Bond Act of 1993".

Sec. 2. Purpose. It is the intent of the General Assembly by this act to provide for the issuance of general obligation bonds of the State, and to provide that the proceeds realized from the sale of the bonds shall be allocated as follows:

(1) Three hundred ten million dollars ($310,000,000) to provide capital improvements for the constituent and affiliated institutions of The University of North Carolina or for the Board of Governors of The University of North Carolina.

(2) Two hundred fifty million dollars ($250,000,000) to provide grants to individual community colleges to finance the costs of community college capital improvements for community colleges in this State.

(3) Forty-five million dollars ($45,000,000) to provide State matching funds required to receive federal wastewater or water supply assistance funds and to provide additional funding for the Clean Water Revolving Loan and Grant Fund established in Chapter 159G of the General Statutes or to provide funding by grants and loans to local government units, and one hundred million dollars ($100,000,000) to provide loans to local government units to finance all or a portion of the cost of construction, improvements, enlargements, extensions, and reconstruction of water supply systems, wastewater collection systems, wastewater treatment works, and water conservation projects.

The funds to be derived from the sale of the Clean Water bonds authorized by this act are sufficient to meet no more than a fraction of the needs which now exist and will arise in the immediate future. For this reason, although public necessity and the criteria established by Chapter 159G of the General Statutes shall be the primary consideration in granting and loaning funds, great emphasis shall also be placed on the creation of efficient systems of regional wastewater disposal and regional water supply, and on the willingness and ability of local government units to meet their responsibilities through sound fiscal policies, creative planning, and efficient operation and management.

(4) Thirty-five million dollars ($35,000,000) to provide capital improvements in the form of repairs, renovations, new construction, and land acquisition for existing State parks and recreation areas.

Sec. 3. Definitions. As used in this act, unless the context otherwise requires:

(1) "Bonds" means bonds issued under this act.

(2) "Clean Water Revolving Loan and Grant Act" means Chapter 796 of the 1987 Session Laws, as the same may be amended from time to time, codified as Chapter 159G of the General Statutes.

(3) "Clean Water Revolving Loan and Grant Fund" means the Clean Water Revolving Loan and Grant Fund as defined in the Clean Water Revolving Loan and Grant Act.

(4) "Cost" means, without intending thereby to limit or restrict any proper definition of this term in financing the cost of facilities or purposes authorized by this act:

a. The cost of constructing, reconstructing, enlarging, acquiring, and improving facilities, and acquiring equipment and land therefor,

b. The cost of engineering, architectural, and other consulting services as may be required,

c. Administrative expenses and charges,

d. Finance charges and interest prior to and during construction and, if deemed advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction,

e. The cost of bond insurance, investment contracts, credit enhancement and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance, to the extent and as determined by the State Treasurer,

f. The cost of reimbursing the State for any payments made for any cost described above, and

g. Any other costs and expenses necessary or incidental to the purposes of this act.

Allocations in this act of proceeds of bonds to the costs of a project or undertaking in each case may include allocations to pay the costs set forth in items c., d., e., f., and g. in connection with the issuance of bonds for the project or undertaking.

(5) "Credit facility" means an agreement entered into by the State Treasurer on behalf of the State with a bank, savings

and loan association, or other banking institution, an insurance company, reinsurance company, surety company, or other insurance institution, a corporation, investment banking firm, or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America, such agreement providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of such agreement.

(6) "Local government units" means local government units as defined in the Clean Water Revolving Loan and Grant Act.

(7) "Notes" means notes issued under this act.

(8) "Par formula" means any provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes, including:

a. A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible,

b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time, or

c. Such other provision as the State Treasurer may determine to be consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(9) "State" means the State of North Carolina.

(10) "Wastewater collection systems" means wastewater collection systems as defined in the Clean Water Revolving Loan and Grant Act.

(11) "Wastewater treatment works" means wastewater treatment works as defined in the Clean Water Revolving Loan and Grant Act.

(12) "Water conservation projects" include but are not limited to any construction, repair, renovation, expansion, replacement of components, or other capital improvement,

including related equipment and land acquisition, designed to:

a. Eliminate the wasteful or unnecessary use or loss of water in the operations of a wastewater collection system, wastewater treatment works, or water supply system; or

b. Enhance the operation of a wastewater collection system, wastewater treatment works, or water supply system to provide a more efficient use of water.

(13) "Water Pollution Control Revolving Fund" means the fund described by G.S. 159G-4(a) and G.S. 159G-5(c).

(14) "Water supply systems" means water supply systems as defined in the Clean Water Revolving Loan and Grant Act.

Sec. 4. Authorization of bonds and notes. (a) University Improvement Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing University Improvement Bonds in the election held as provided in this act, the State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina University Improvement Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in the aggregate principal amount not exceeding three hundred ten million dollars ($310,000,000) for the purposes authorized in this act.

(b) Community College Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Community College Bonds in the election held as provided in this act, the State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Community College Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in the aggregate principal amount not exceeding two hundred fifty million dollars ($250,000,000) for the purposes authorized in this act.

(c) Clean Water Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Clean Water Bonds in the election called and held as provided in this act, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Clean Water Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to

time, or notes of the State as provided in this act, in an aggregate principal amount not exceeding one hundred forty-five million dollars ($145,000,000) for the purpose of providing funds, with any other available funds, for the purposes authorized in this act.

(d) State Parks Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing State Parks Bonds in the election called and held as provided in this act, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina State Parks Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in the aggregate principal amount not exceeding thirty-five million dollars ($35,000,000) for the purposes authorized in this act.

Sec. 5. Uses of bond and note proceeds. (a) University Improvement Bonds. The proceeds of University Improvement Bonds and notes shall be used for the purpose of (i) paying the cost of capital improvements for the constituent or affiliated institutions of The University of North Carolina, under the supervision of the Board of Governors of The University of North Carolina, including, without limitation, construction and renovation of classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeteria and activity facilities, including sports facilities, administrative office buildings, and land acquisition, (ii) paying the cost of capital improvements for the North Carolina Center for Public Television under the Board of Governors of The University of North Carolina, and (iii) making grants to nonprofit corporations and public agencies to provide capital improvements for Area Health Education Centers. Grants made to provide capital improvements for Area Health Education Centers shall be made only to nonprofit corporations and public agencies. The rules and regulations and agreements governing the Area Health Education Center Program shall contain provisions necessary to assure that the proceeds of the bonds or notes are applied for the accomplishment of public purposes only within the meaning of Article V, Section 2 of the North Carolina Constitution, including, without limitation, provisions to assure that the grant moneys are applied to the payment of the cost of capital improvements used in connection with the Area Health Education Center Program and further shall contain provisions to assure compliance with G.S. 143-6.1. The buildings constructed using the proceeds of the bonds, other than any buildings constructed with Area Health Education Centers Construction Grants, may be constructed only after consideration of

the energy design guidelines developed by the Energy Division of the Department of Commerce.

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any university improvements authorized by this act may be placed by the State Treasurer in the University Improvement Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

The proceeds of University Improvement Bonds and notes may be used with any other moneys made available by the General Assembly for the making of university improvements, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this act is ratified or any subsequent sessions. The proceeds of University Improvement Bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this act for university improvements shall be disbursed for the purposes provided in this act upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

The Board of Governors of The University of North Carolina shall provide quarterly reports to the Joint Legislative Commission on Governmental Operations, the chairs of the Senate and House of Representatives Appropriations Committees, and the Fiscal Research Division on the expenditure of moneys from the University Improvement Bonds Fund.

(b) Community College Bonds. The proceeds of Community College Bonds and notes shall be used for the purpose of making grants to community colleges, as defined in Chapter 115D of the General Statutes, the proceeds of the grants to be allocated and expended for paying the cost of Community College capital improvements, including, without limitation, construction and renovation of classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeteria and activity facilities, including sports facilities, administrative office buildings, and related equipment and land acquisition. The buildings constructed using the proceeds of the bonds may be constructed only after consideration of the energy

design guidelines developed by the Energy Division of the Department of Commerce.

Any additional moneys which may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any Community College grants authorized by this act may be placed by the State Treasurer in the Community College Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

The proceeds of Community College Bonds and notes may be used with any other moneys made available by the General Assembly for the making of Community College grants, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this act is ratified or any subsequent sessions. The proceeds of Community College Bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this act for Community College improvements shall be disbursed for the purposes provided in this act upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

The State Board of Community Colleges shall provide quarterly reports to the Joint Legislative Commission on Governmental Operations, the chairs of the Senate and House of Representatives Appropriations Committees, and the Fiscal Research Division on the expenditure of moneys from the Community College Bonds Fund.

(c) Clean Water Bonds. The proceeds of Clean Water Bonds and notes shall be used for the purpose of making loans and grants to local governments as follows:

(1) The proceeds of forty-five million dollars ($45,000,000) of Clean Water Bonds shall be used and allocated for the same purposes for which funds in the Clean Water Revolving Loan and Grant Fund may be used including, without limitation, to provide funds to be used to make revolving loans and grants to local government units. The revolving loans and grants shall be made for the purpose of paying the cost of water supply systems, wastewater collection systems, and wastewater treatment works.

The first priority for use of these proceeds shall be to provide State funds necessary for the 1993-95 fiscal

biennium to match the federal wastewater or water supply assistance funds, deposited in the Clean Water Pollution Control Revolving Fund or another fund, that are available from year to year, unless the General Assembly has provided other funds for this purpose, in which event this priority shall cease to exist to the extent of the availability of those other funds. For the purpose of implementing this priority, the Department of Environment, Health, and Natural Resources shall certify to the State Treasurer the amount of funds required for the State match for each of the fiscal years ending June 30, 1994, and June 30, 1995, and the extent to which the General Assembly has provided other funds for this purpose. Upon certification to the State Treasurer of the amount of funds required for the State match for the fiscal year ending June 30, 1994, the State may issue up to twenty-two million five hundred thousand dollars ($22,500,000) of Clean Water Bonds authorized by this subdivision for the purpose of funding the State match for that fiscal year and for any other purposes authorized by this subdivision. Upon certification to the State Treasurer of the amount of funds required for the State match for the fiscal year ending June 30, 1995, the State may issue the remaining balance of Clean Water Bonds authorized by this subdivision for the purpose of funding the State match for that fiscal year and for any other purposes authorized by this subdivision. The proceeds of the bonds necessary for the State match for each fiscal year shall be deposited in the Clean Water Pollution Control Revolving Fund or any other fund or account determined by the State Treasurer.

The proceeds may be (i) transferred directly to the Clean Water Revolving Loan and Grant Fund to make revolving loans or grants, (ii) used to make revolving loans or grants directly to the appropriate local government qualifying for a revolving loan or grant from the Clean Water Revolving Loan and Grant Fund, (iii) used for any combination of (i) and (ii), or (iv) used in such other manner as shall effectuate the purposes of this act. Although public necessity and the criteria established by Chapter 159G of the General Statutes shall be the primary consideration in granting and loaning funds, great emphasis shall be placed on the creation of efficient systems of regional wastewater disposal and regional water supply, and on the willingness and ability of local government units to meet their responsibilities through sound fiscal policies,

creative planning, and efficient operation and management. Loans and grants made from bond proceeds transferred from the Clean Water Bonds Fund to the Clean Water Revolving Loan and Grant Fund shall be made and administered in accordance with the provisions of the Clean Water Revolving Loan and Grant Act. Loans and grants made from bond proceeds directly to local government units and any loan repayments shall, to the extent applicable, be made, administered, and applied in accordance with the provisions of the Clean Water Revolving Loan and Grant Act. Repayments of any direct loans may be initially placed into any fund or account as may be determined by the State Treasurer for the purpose of determining compliance with the applicable requirements of the federal tax law and shall be expended and disbursed therefrom under the direction and supervision of the Director of the Budget.

(2) The proceeds of one hundred million dollars ($100,000,000) of Clean Water Bonds shall be used for the purpose of making loans to local government units to pay the cost of water supply systems, water conservation projects, wastewater collection systems, and wastewater treatment works. Sixty-nine percent (69%) of the proceeds of the bonds and notes shall be allocated for loans to local government units for wastewater collection systems and wastewater treatment works. Thirty-one percent (31%) of the proceeds of the bonds and notes shall be allocated for loans to local government units for water supply systems and water conservation projects.

The proceeds shall be used to make loans directly to local government units qualifying for a loan from the Clean Water Revolving Loan and Grant Fund or loaned in such other manner as shall effectuate the purposes of this act. To qualify for a loan from the Clean Water Bonds Fund for the purpose of paying the cost of water supply systems, a local government unit must have a water supply facility plan approved by the Department of Environment, Health, and Natural Resources. A water supply facility plan submitted by a local government unit to the Department under G.S. 143-355(l) will be sufficient to meet this requirement. To qualify for a loan from the Clean Water Bonds Fund for the purpose of paying the cost of wastewater collection systems or wastewater treatment works, a local government unit must have a wastewater facility plan approved by the Department of Environment, Health, and Natural Resources. A

wastewater facility plan must project future wastewater treatment needs, must present a long-range plan to meet those needs, and must include plans for system operations and maintenance of the facilities being built with the bond proceeds.

The Department of Environment, Health, and Natural Resources shall set the priorities and determine the eligibility of local government units for these loans in accordance with Section 10 of this act. The form of the loans and the details thereof including, without limitation, the maturity, interest rate, and amortization schedule, shall be determined, from time to time, by the State Treasurer. In making these determinations, the State Treasurer shall consider the purpose of the loans, the ability of local government units to repay the loans, and the security for the loans. The interest rates on these loans shall reflect the self-supporting nature of the loan program and shall be sufficient to cover substantially all payments of debt service on the one hundred million dollars ($100,000,000) of Clean Water Bonds and the issuance costs and administrative expenses associated with the issuance of these bonds and the making of these loans, subject to any applicable requirements of the federal tax law.

Repayments of the loans shall be credited to the General Fund and may be used to pay, directly or indirectly, debt service on the bonds and notes issued. Repayments may be initially placed into such fund or account as may be determined by the State Treasurer for the purpose of determining compliance with applicable requirements of the federal tax law and shall be expended and disbursed therefrom under the direction and supervision of the Director of the Budget.

Any additional moneys which may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source for deposit to the Clean Water Bonds Fund may be placed in the Clean Water Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

The proceeds of bonds and notes may be used with any other moneys made available by the General Assembly for making grants and loans authorized by this act, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this

act is ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this act shall be disbursed for the purposes provided in this act upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

(d) State Parks Bonds. The proceeds of State Parks Bonds and notes shall be used for the purpose of paying the cost of capital improvements for new and existing State parks and recreation areas including, without limitation, land acquisition and the repair, renovation, and construction of visitors' centers, parking lots and access roads, dams, picnic areas, ranger residences, tent and trailer campsites, boat and canoe launching areas, rental cabins, boathouses, swimming facilities, trails, exhibits, storage buildings, water and wastewater systems, electrical systems, and underground fuel tanks. No more than thirty percent (30%) of the proceeds of the State Parks Bonds and notes for land acquisition may be used, however, for land acquisition.

Any additional moneys which may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source for deposit to the State Parks Bonds Fund may be placed in the State Parks Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

The proceeds of bonds and notes may be used with any other moneys made available by the General Assembly for the cost of State parks and recreation facilities including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this act is ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this act shall be disbursed for the purposes provided in this act upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

Sec. 6. Allocation of proceeds. (a) University Improvement Bonds. The proceeds of University Improvement Bonds and notes,

including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "University Improvement Bonds Fund". Moneys in the University Improvement Bonds Fund shall be used for the purposes set forth in this act. The proceeds of University Improvement Bonds and notes shall be allocated and expended for paying the cost of university capital improvements, to the extent and as provided in this act and subject to change as provided in this act, as follows:

Constituent or Affiliated Institution or Board of Governors Capital Improvement	Projected Allocation
Appalachian State University	
Academic Support Services Building	$ 8,794,900
Science/Mathematics Complex, Phase I	15,000,000
East Carolina University	
Addition to Joyner Library	28,900,000
Land	5,000,000
Elizabeth City State University	
Fine Arts and Mass Communications Building	6,432,600
Fayetteville State University	
Residence Hall Renovations	9,479,600
North Carolina A & T State University	
School of Technology Classroom/Laboratory Building	7,961,900
Renovation of Bluford Library Building	5,051,400
North Carolina Central University	
Conversion of Women's Gymnasium in Support of Academic Programs	1,970,900
Chidley Hall Complex	9,018,300
North Carolina School of the Arts	
School of Filmmaking Production Facility	6,999,200
North Carolina State University at Raleigh	
Engineering Graduate Research Center	34,918,200
Agricultural Communications Building	4,484,900
Agricultural Programs - Laboratory Animal Facilities	4,484,100

Pembroke State University	
New Administrative Office Building	5,723,300
Repairs and Renovations to Business Administration Building	422,700
The University of North Carolina at Asheville	
Conference Center	3,974,400
Physical Education Building (Health Promotion)	5,475,600
The North Carolina Arboretum	2,500,000
The University of North Carolina at Chapel Hill	
New Building, School of Business Administration	13,490,900
Addition to Lineberger Cancer Research Center	8,119,900
Carolina Living and Learning Center for Autistic Adults, Phase II	1,190,400
Addition to School of Dentistry	8,887,100
Area Health Education Centers - Construction Grants	3,370,800
The University of North Carolina at Charlotte	
Classroom and Academic Support Facility	22,610,400
The University of North Carolina at Greensboro	
New Music Building	23,357,000
The University of North Carolina at Wilmington	
Physical Sciences Building and Renovation of DeLoach Hall	18,522,900
Construct West Wing of Bear Hall and Renovate West End of Bear Hall	992,050
Western Carolina University	
Completion of Belk Building and Asbestos Removal	3,280,200
Renovate Moore Hall, Phase II	2,043,900
Renovate Camp Lab School	1,896,500
Renovate Reid Gym	2,379,400
Winston-Salem State University	
Student Services/Cafeteria/Student Union Complex	6,073,350
Renovations to O'Kelly Library	1,119,500
North Carolina School of Science and Mathematics	
Educational Technologies Center and Auditorium	8,073,700

Board of Governors	
Other Critical Needs	12,000,000
UNC Center for Public Television	
Improvements to Facilities	6,000,000
TOTAL	$310,000,000

Projected allocations set forth above may be adjusted to reflect the availability of other funds.

The Board of Governors of The University of North Carolina shall allocate the funds designated above for "other critical needs" for specific projects, within the general purposes authorized for University Improvement Bonds and notes by this act, and within the aggregate amount of funds available under this section, after considering relative needs at all sixteen campuses.

The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and The University of North Carolina to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized in this section, or to increase the amount allocated to a particular institution or the Board of Governors within the aggregate amount of funds available under this section. The Director of the Budget may consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes. In addition, the particular capital improvements and the amount of the projected allocation therefor set forth above may be changed from time to time as the General Assembly may decide. The provisions of G.S. 116-11(9) with respect to appropriations to the Board of Governors of The University of North Carolina shall not apply to proceeds of University Improvements Bonds and notes issued pursuant to the provisions of this act.

Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in Section 3(4)c., d., e., f., and g. of this act in connection with the issuance of bonds for that capital improvement or undertaking.

(b) Community College Bonds. The proceeds of Community College Bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "Community College Bonds Fund" and shall be disbursed as provided in this act. Moneys in the Community College Bonds

Fund shall be used for making grants to community colleges, as set forth in this act.

I. The proceeds of grants made from the proceeds of two hundred twenty-six million one hundred thousand dollars ($226,100,000) Community College Bonds and notes shall be allocated and expended for paying the cost of community college capital improvements, to the extent and as provided in this act and subject to change as provided in this act, as follows:

COLLEGE	CAPITAL IMPROVEMENT	PROJECTED ALLOCATION
Alamance CC	Phase III - LRC Expansion	$3,309,855
Anson CC	Advanced Technology Center	2,998,465
Union Cty.	Advanced Technology Center	2,500,000
Asheville-Buncombe TCC	Classroom/Lab/Office Building	5,000,000
Beaufort County CC	Student Services Center	2,900,000
Bladen CC	Allied Health Care Center	1,015,472
Blue Ridge CC	Allied Health Building	5,000,000
Transylvania Cty.	Classroom/Office Bldg.	502,225
Brunswick CC	Allied Health/Classroom	4,000,000
Caldwell CC & TI	Classroom/Lab Building	6,100,000
Watauga Cty.	Classroom/Lab Bldg.	2,261,539
Cape Fear CC	Health Sciences Building	7,340,485
Pender Cty.	Classroom Building	690,212
Carteret CC	Classroom/Student Center	2,437,904
Catawba Valley CC	Physical Ed./Classroom Bldg.	5,586,218
Central Carolina CC	Classroom Building	2,000,000
Chatham Cty.	Classroom Building	2,000,000
Harnett Cty.	Classroom Building	1,000,000
Central Piedmont CC	Science Labs Expansion	3,950,000
Cleveland CC	Advanced Technology Building	2,213,022

Coastal Carolina CC	Public Service Technology Bldg.	3,000,000
College of the Albemarle	Classroom/Administration Bldg.	3,215,924
Dare Cty.	Class/Lab/Student Services Bldg.	1,500,000
Craven CC	Academic Studies/Basic Skills Bldg.	2,790,276
Davidson County CC	Advanced Technology Building	3,875,000
Davie Cty.	Class/Lab/Instructional Support Bldg.	1,980,000
Durham TCC	Classroom/Office Building	5,800,000
Edgecombe CC	Class/Lab Addition-Rocky Mount	1,200,000
Fayetteville TCC	Health & Science Facility	6,000,000
Forsyth TCC	Class/Lab/Admin. - East Campus	7,900,000
Gaston College	Work Force Preparedness Center	5,860,000
Guilford TCC	Applied Technology Building	7,740,000
Halifax CC	Literacy Ed/Science Building	2,008,592
Haywood CC	Classroom Building	1,100,000
Isothermal CC	Cultural Arts Center	5,444,444
Polk Cty.	Classrooms/Labs Addition	358,686
James Sprunt CC	Multi-Purpose Center	3,708,406
Johnston CC	Allied Health Building	3,000,000
Lenoir CC	Classroom/Auditorium Building	3,326,348
Greene Cty.	New Instructional Facility	1,500,000
Jones Cty.	New Vocational Annex	100,000
Martin CC	Equine Arena	577,553
Bertie Cty.	Class/Lab/Office Building	250,000
Mayland CC	Shop/Student Lecture Hall	4,037,566

McDowell TCC	Classroom Building	1,900,000
Mitchell CC	Renovate Main Building	2,200,000
Montgomery CC	LRC Building	2,592,709
Nash CC	LRC/Student Center	4,409,179
Pamlico CC	Multi-Purpose Class/Office Bldg.	1,164,959
Piedmont CC	Classroom/Faculty Office Bldg.	459,815
Caswell Cty.	Adult Learning Center	1,300,000
Pitt CC	Student Services Building	4,500,000
Randolph CC	Allied Hlth/Science & Tech Center	2,816,878
Richmond CC	Fine Arts Ctr/Auditorium	2,251,414
Roanoke-Chowan CC	Classroom/Student Support Center	2,549,087
Robeson CC	Teaching Theaters/ Allied Hlth Classroom	1,430,228
Rockingham CC	Multi-Purpose Building	2,700,000
Rowan-Cabarrus CC	Engineering Building	4,200,000
Cabarrus Cty.	Classroom Building	1,573,312
Sampson CC	Multi-Purpose Building	2,500,000
Sandhills CC	Cont. Ed. Center/Classrooms	4,800,000
Hoke Cty.	Renovate Classrooms	300,000
Southeastern CC	Nursing/Allied Health Building	1,309,400
Southwestern CC	General Classroom Building	2,000,000
Macon Cty.	Region Law Enf. Defensive Dr. Course	300,000
Swain Cty.	Class/Lab/Office Bldg.	900,000
Stanly CC	Learning Resource Center	2,341,210
Surry CC	Health/Day Care/Library Building	4,054,417

Tri-County CC	Student Services Ctr./ Classroom Bldg.	1,123,010
Graham Cty.	Class/Lab/Study Bldg.	480,000
Vance-Granville CC	Allied Health/Day Care/ Classroom Bldg.	2,127,400
Franklin Cty.	Class/Lab/Office Building	1,500,000
Granville Cty.	Additional Classrooms	377,500
Warren Cty.	Campus Renovations	212,500
Wake TCC	Student Education Bldg.	11,000,000
Wayne CC	Student & Telecommunications Bldg.	6,328,622
Western Piedmont CC	Class/Office Bldg. (Bus. Tech.)	3,420,168
Wilkes CC	LRC-Student Development	4,700,000
Ashe Cty.	Classroom Building	200,000
Wilson TCC	Multi-Purpose Building	1,000,000
TOTAL		$226,100,000

Projected allocations set forth above may be adjusted to reflect the availability of other funds. The Board of Trustees of an individual community college may change the projects or allocations for that college, but not for a satellite campus, within the total amount of funds allocated for that college; the Board of Trustees may not, however, change, reduce, or eliminate a project or an allocation at a satellite campus of the community college.

The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the North Carolina Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized in this section, or to increase the amount allocated to a particular community college within the aggregate amount of funds available under this section. The Director of the Budget may consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes. In addition, the particular capital improvements and the amount of the projected allocation therefor set

forth above may be changed from time to time as the General Assembly may decide.

II. The proceeds of grants made from the proceeds of twenty-three million nine hundred thousand dollars ($23,900,000) Community College Bonds and notes shall be allocated and expended for particular projects to be determined as hereinafter provided. The proceeds of twenty-three million nine hundred thousand dollars ($23,900,000) Community College Bonds or notes shall not be issued and no proceeds of twenty-three million nine hundred thousand dollars ($23,900,000) Community College Bonds or notes shall be allocated for the purposes provided in this act, however, until the General Assembly authorizes the issuance of some or all of these Community College Bonds or notes and appropriates the proceeds of these bonds and notes for specific projects within these purposes by separate legislative action in addition to this act in 1994 or at any subsequent session.

It is the intent of the General Assembly to appropriate the proceeds of the bonds and notes in 1994 or at a subsequent session based on consideration of the recommendations of the Legislative Study Commission on Community College Capital Needs in its report to be submitted to the General Assembly by April 1994 as provided in Section 11 of this act. Actual appropriations by the General Assembly in 1994 or at a subsequent session may be made without regard to the expressed intentions set forth above.

Nothing in this act or as a result of the approval of the bonds at the election provided for in this act restricts the right of the General Assembly, in addition to the right to specify the projects and the allocations therefor, in 1994 or at a subsequent session to:

(1) Establish a procedure whereby projected allocations set forth in subsequent legislation may be increased or decreased to reflect the availability of other funds, including, without limitation, contingency funds, income earned on the investment of bond and notes proceeds, and the proceeds of grants.

(2) Establish a contingency account and provide for an allocation of bond proceeds thereto. The funds in the contingency account may be used to pay the cost of projects, the costs of issuance of bonds and notes, and increased project costs resulting from construction costs exceeding projections, inflationary factors, and changes in projects and allocations. The funds allocated to the contingency account shall be placed by the State Treasurer in a separate account in the Community College Bonds Fund and shall be disbursed in

accordance with the procedures established for disbursements from the Community College Bonds Fund.

(3) Empower the Director of the Budget, when the Director determines it is in the best interest of the State and the Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project authorized by the General Assembly.

III. Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in Section 3(4)c., d., e., f., and g. of this act in connection with the issuance of bonds for that capital improvement or undertaking. The matching requirements of G.S. 115D-31(a)(1) apply to the proceeds of Community College Bonds and notes used to make grants to community colleges.

(c) Clean Water Bonds. The proceeds of Clean Water Bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "Clean Water Bonds Fund", which may include such appropriate special accounts therein as may be determined by the State Treasurer, and shall be disbursed as provided in this act. Moneys in the Clean Water Bonds Fund shall be allocated and expended as provided in this act.

(d) State Parks Bonds. The proceeds of State Parks Bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "State Parks Bonds Fund", which may include such appropriate special accounts therein as may be determined by the State Treasurer, and shall be disbursed as provided in this act. Moneys in the State Parks Bonds Fund shall be used for the purposes set forth in this act, and the particular projects within such purposes to be financed in whole or in part from the proceeds shall be determined as hereinafter provided.

No State Parks Bonds or notes shall be issued and no proceeds of State Parks Bonds and notes shall be allocated for the purposes provided in this act, however, until the General Assembly authorizes issuance of some or all of State Parks Bonds and notes and appropriates the proceeds of the bonds and notes for specific projects within these purposes by separate legislative action in addition to this act in 1993 or at any subsequent session. The General Assembly

shall appropriate no more than thirty percent (30%) of the proceeds of the bonds and notes for land acquisition.

It is the intent of the General Assembly to appropriate the proceeds of the bonds and notes in 1994 or at a subsequent session based on the recommendations of the Department of Environment, Health, and Natural Resources in its State parks capital improvement and land acquisition plan to be submitted to the General Assembly by May 1994 as provided in Section 11 of this act. Actual appropriations by the General Assembly in 1993 or at a subsequent session may be made without regard to the expressed intentions set forth above.

Nothing in this act or as a result of the approval of the bonds at the election provided for in this act restricts the right of the General Assembly in 1993 or at a subsequent session to:

(1) Establish a procedure whereby projected allocations set forth in subsequent legislation may be increased or decreased to reflect the availability of other funds, including, without limitation, contingency funds, income earned on the investment of bonds and notes proceeds, and the proceeds of grants.

(2) Establish a contingency account and provide for an allocation of bond proceeds thereto. The funds in the contingency account may be used to pay the cost of projects, the costs of issuance of bonds and notes, and increased project costs resulting from construction costs exceeding projections, inflationary factors, and changes in projects and allocations. The funds allocated to the contingency account shall be placed by the State Treasurer in a separate account in the State Parks Bonds Fund and shall be disbursed in accordance with the procedures established for disbursements from the State Parks Bonds Fund.

(3) Empower the Director of the Budget, when the Director determines it is in the best interest of the State and the State Parks System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized by the General Assembly, or to increase the amount allocated to a particular project within the aggregate amount of funds available under this section; the Director of the Budget having the right to consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations.

(4) Provide that to the extent that funds are not required to be expended for the specific projects identified by the General Assembly, allocations may be used for capital outlay projects

at any State park as replacement projects, but no such funds may be used for operating expenditures.

Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in Section 3(4)c., d., e., f., and g. of this act in connection with the issuance of bonds for that capital improvement or undertaking.

Sec. 7. Election. The questions of the issuance of the bonds authorized by this act shall be submitted to the qualified voters of the State at an election to be held on the first Tuesday after the first Monday of November 1993. Any other primary, election, or referendum validly called or scheduled by law at the time the election on the bond questions provided for in this section is held, may be held as called or scheduled. Notice of the election on the bond questions shall be given by publication twice in a newspaper or newspapers having general circulation in each county in the State, and the election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in the election.

The State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding the election that are in addition to those that would have otherwise been incurred, the same to be paid out of the Contingency and Emergency Fund or other funds available to the State Board of Elections.

Voting machines, ballots, or both may be used in accordance with rules prescribed by the State Board of Elections. The bond questions to be used in the voting machines and ballots shall be in substantially the following forms:

"[ ] FOR the issuance of three hundred ten million dollars ($310,000,000) State of North Carolina University Improvement Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay the cost of capital improvements for constituent or affiliated institutions and the Center for Public Television of The University of North Carolina.

[ ] AGAINST the issuance of three hundred ten million dollars ($310,000,000) State of North Carolina University Improvement Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay the cost of capital improvements for constituent or affiliated institutions

and the Center for Public Television of The University of North Carolina.

[ ] FOR the issuance of two hundred fifty million dollars ($250,000,000) State of North Carolina Community College Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, together with other available funds, to make grants to community colleges to pay all or a portion of the cost of providing capital improvements.

[ ] AGAINST the issuance of two hundred fifty million dollars ($250,000,000) State of North Carolina Community College Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, together with other available funds, to make grants to community colleges to pay all or a portion of the cost of providing capital improvements.

[ ] FOR the issuance of one hundred forty-five million dollars ($145,000,000) State of North Carolina Clean Water Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to make loans, revolving loans, and grants to local government units to pay all or a portion of the cost of clean water projects.

[ ] AGAINST the issuance of one hundred forty-five million dollars ($145,000,000) State of North Carolina Clean Water Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to make loans, revolving loans, and grants to local government units to pay all or a portion of the cost of clean water projects.

[ ] FOR the issuance of thirty-five million dollars ($35,000,000) State of North Carolina State Parks Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay the cost of land acquisition and capital improvements for new and existing State parks and recreation areas.

[ ] AGAINST the issuance of thirty-five million dollars ($35,000,000) State of North Carolina State Parks Bonds

constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay the cost of land acquisition and capital improvements for new and existing State parks and recreation areas."

If a majority of those voting on a bond question in the election vote in favor of the issuance of the bonds described in the question, those bonds may be issued as provided in this act. If a majority of those voting on a bond question in the election vote against the issuance of the bonds described in the question, those bonds shall not be issued.

The results of the election shall be canvassed and declared as provided by law for elections for State officers; the results of the election shall be certified by the State Board of Elections to the Secretary of State, in the manner and at the time provided by the general election laws of the State.

Sec. 8. Issuance of bonds and notes. (a) Terms and Conditions. Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not exceeding 40 years from their date or dates, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices, including a price less than the face amount of the bonds or notes, and under such terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. Bonds or notes may be issued as certificated or uncertificated obligations. If issued as certificated obligations, bonds or notes shall be signed on behalf of the State by the Governor or shall bear his facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile signature, and shall bear the Great Seal of the State or a facsimile thereof shall be impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. Should any officer whose signature or facsimile signature appears on bonds or notes cease to be such officer before the delivery of the bonds or notes, the signature or

facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery and bonds or notes may bear the facsimile signatures of persons who at the actual time of the execution of the bonds or notes shall be the proper officers to sign any bond or note although at the date of the bond or note such persons may not have been such officers. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this act; provided, however, that nothing in this act shall prohibit the State Treasurer from proceeding, with respect to the issuance and form of the bonds or notes, under the provisions of Chapter 159E of the General Statutes, the Registered Public Obligations Act, as well as under this act.

(c) Manner of Sale; Expenses. Subject to determination by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States of America and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at such rate or rates of interest, which may vary from time to time, and at such price or prices, including a price less than the face amount of the bonds or the notes, as the State Treasurer may determine. All expenses incurred in preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Notes; Repayment.

(1) By and with the consent of the Council of State, the State Treasurer is hereby authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

a. For anticipating the sale of bonds to the issuance of which the Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of the bonds;

b. For the payment of interest on or any installment of principal of any bonds then outstanding, if there shall not be sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due;

c. For the renewal of any loan evidenced by notes herein authorized;

d. For the purposes authorized in this act; and
e. For refunding bonds or notes as herein authorized.

(2) Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this act. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds.

(e) Refunding Bonds and Notes. By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding bonds or notes issued pursuant to this act. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured.

(f) Tax Exemption. Bonds and notes shall be exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes. The interest on bonds and notes shall not be subject to taxation as to income.

(g) Investment Eligibility. Bonds and notes are hereby made securities in which all public officers, agencies, and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Bonds and notes are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

(h) Faith and Credit. The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. In addition to the State's right to amend any provision of this act to the extent it does not impair any contractual right of a bond owner, the State expressly reserves the right to amend any provision of this act with respect to the making and repayment of loans, the disposition of any repayments of loans, and any intercept provisions relating to the failure of a local government

unit to repay a loan, the bonds not being secured in any respect by loans, any repayments thereof, or any intercept provisions with respect thereto.

Sec. 9. Variable interest rates. In fixing the details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner thereof provided a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially or adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State;

(2) Be additionally supported by a credit facility;

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity;

(4) Bear interest at a rate or rates that may vary for such period or periods of time, all as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, such variations as may be permitted pursuant to a par formula; and

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

If the aggregate principal amount repayable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes during the term of such credit facility shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.

Sec. 10. Special provisions governing clean water loans. (a) Scope. The provisions of this section shall apply to loans being made from the proceeds of bonds authorized by this act for clean water projects, other than from funds deposited in the Clean Water Revolving Loan and Grant Fund.

(b) Clean Water Bonds Loan Fund. There is established in the Department of State Treasurer a fund to be known as the Clean Water

Bonds Loan Fund, which may include any special or segregated accounts the State Treasurer considers appropriate. There shall be deposited in the Clean Water Bonds Loan Fund proceeds of the Clean Water Bonds and notes to be used to make loans, other than loans to be made through the Clean Water Revolving Loan and Grant Fund, to local government units for clean water projects as provided in this act. Funds in the various accounts may be invested from time to time by the State Treasurer in the same manner permitted for investments of funds belonging to the State or held in the State treasury. Any investment earnings shall be credited to the particular account from which the investment was made.

All moneys accruing to the credit of the Clean Water Bonds Loan Fund, other than funds set aside for administrative expenses, including expenses related to determining compliance with applicable requirements of the federal tax law and costs of issuance, shall be used to make loans for the purposes provided in this act. The State Treasurer shall be responsible for making and administering all loans pursuant to the provisions of this section.

(c) Application for Loans; Hearings.

(1) Eligibility/Initial Hearing.

a. Prior to filing an application for a loan, a local government unit shall hold a public hearing. A notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing.

b. All applications for loans shall be filed with the Department of Environment, Health, and Natural Resources. The form of the application shall be prescribed by the Department and shall require any information necessary to determine the eligibility for a loan under the provisions of this section. All applications approved by the Department of Environment, Health, and Natural Resources shall be filed with the Local Government Commission. Each applicant shall furnish to the Department of Environment, Health, and Natural Resources and the Local Government Commission information in addition or supplemental to the information contained in its application, upon request.

c. A local government unit shall not be eligible for a loan unless it demonstrates to the satisfaction of the Department of Environment, Health, and Natural Resources and the Local Government Commission that:

1. The applicant is a local government unit;

2. The applicant has the financial capacity to pay the principal of and interest on its proposed loan as evidenced by the approval of the Local Government Commission;
3. The applicant has substantially complied or will substantially comply with all applicable laws, rules, regulations, and ordinances, whether federal, State, or local; and
4. The applicant has agreed by official resolution to adopt and place into effect a schedule of fees and charges or the application of other sources of revenue which will provide adequate funds for proper operation, maintenance, and administration of the project and repayment of all principal and interest on the loan.

(2) Assessment. The Department of Environment, Health, and Natural Resources may require any applicant to file with its application an assessment of the impact the project for which the funds are sought will have upon meeting the facility needs of the area within which the project is to be located.

(3) Hearing by the Department of Environment, Health, and Natural Resources or the Local Government Commission. A public hearing may be held by the Department of Environment, Health, and Natural Resources or the Local Government Commission at any time on any application. Public hearings may also be held by the Department of Environment, Health, and Natural Resources in its discretion upon written request from any citizen or taxpayer who is a resident of the county or counties in which the project is to be located or a resident of the local government unit that proposes to borrow moneys under this act, if it appears that the public interest will be served by the hearing. The written request shall set forth each objection to the proposed project or other reason for requesting a hearing on the application and shall contain the name and address of the persons submitting it. The Department of Environment, Health, and Natural Resources may consider all written objections to the proposed project and other statements along with the application including any significant considerations on facility needs and shall determine if the public interest will be served by a hearing. The determination by the Department of Environment, Health, and Natural Resources shall be conclusive and all written requests for a hearing

shall be retained as a permanent part of the records pertaining to the application.

(4) Petition for Vote. A petition, demanding that the question of whether to enter into a loan agreement with the State under this act be submitted to voters, may be filed with the clerk of the local government unit applying for the loan within 15 days after the public hearing required by this section. The petition's sufficiency shall be determined and a referendum, if any, shall be conducted, according to the standards, procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.

(d) Priorities.

(1) Determination. Determination of priorities to be assigned each eligible project shall be made semiannually by the Department of Environment, Health, and Natural Resources during each fiscal year. Every eligible project shall be considered by the Department of Environment, Health, and Natural Resources with every other project eligible during this same priority period.

(2) Priority Factors. All applications for loans under this act shall be assigned a priority by the Department of Environment, Health, and Natural Resources. The Department of Environment, Health, and Natural Resources shall establish by rule the priority factors criteria.

(3) Assignment of Priority. A written statement relative to each priority assigned shall be prepared by the Department of Environment, Health, and Natural Resources and shall be attached to the application. The priority assigned shall be conclusive.

(4) Failure to Qualify. If an application does not qualify for a loan as of the prior period in which the application was eligible for consideration by reason of the priority assigned, the application shall be considered during the next succeeding priority period upon request of the applicant. If the application again fails to qualify for a loan during the second priority period by reason of the priority assigned, the application shall receive no further consideration. An applicant may file a new application at any time and may amend any pending application to include additional data or information.

(5) Withdrawal of Commitment. Failure of an applicant within one year after the date of acceptance of the loan to arrange for necessary financing of the proposed project or award of the contract of the construction of the proposed project shall

constitute sufficient cause for withdrawal of the commitment. Prior to withdrawal of a commitment, the Department of Environment, Health, and Natural Resources shall give due consideration to any extenuating circumstances presented by the applicant as reasons for failure to arrange necessary financing or to award a contract, and the commitment may be extended for an additional period of time if, in the judgment of the Department of Environment, Health, and Natural Resources, the extension is justified.

(e) Disbursement. To be eligible to receive the loans provided for in this section, a local government unit must arrange to borrow the amounts necessary pursuant to rules adopted by the Local Government Commission. No funds shall be disbursed until the Department of Environment, Health, and Natural Resources gives a certificate of eligibility to the effect that the applicant meets all eligibility criteria and that all procedural requirements of this act have been met. The maximum principal amount of a loan shall be one hundred percent (100%) of the cost of any eligible project.

(f) Intercept. The governing body of a local government unit shall by resolution authorize to be included in its loan agreement a provision authorizing the State Treasurer, upon failure of the local government unit to make a scheduled repayment of the loan, to withhold from the local government unit any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan. In such event, notwithstanding any other provision of law, the State Treasurer is authorized to withhold and apply such funds to the repayment of the loan, except that such funds shall not be withheld if (i) before the execution of the loan agreement, such funds have been legally pledged to secure special obligation bonds or other obligations of the local government unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to secure special obligation bonds or other obligations of the local government unit as authorized in this subsection. After the execution of a loan agreement, all or any portion of the State funds specified in the loan agreement to be so withheld may be pledged to secure special obligation bonds or other obligations of the local government unit only with the prior written consent of the State Treasurer.

The State Treasurer shall notify the Secretary of Revenue and the State Controller of the amount to be withheld from the local government unit, and the Secretary of Revenue and the State Controller shall transfer to the State Treasurer the amount so requested to be applied by the State Treasurer to the repayment of the loan.

(g) Inspection. Inspection of a project for which a loan has been made under this act may be performed by qualified personnel of the Department of Environment, Health, and Natural Resources or may be performed by qualified engineers registered in this State approved by the Department of Environment, Health, and Natural Resources. No person shall be approved to perform inspections who is an officer employed by the local government unit to which the loan was made or who is an owner, officer, employer, or agent of a contractor or subcontractor engaged in the construction of the project for which the loan was made. For the purpose of payment of inspection fees, inspection services shall be included in the term "cost" as used in this act.

(h) Rules. The State Treasurer, the Local Government Commission, and the Department of Environment, Health, and Natural Resources may adopt, modify, and repeal rules necessary for the administration of their respective duties under this act. Uniform rules may be jointly adopted where feasible and desirable, and no rule, jointly adopted, may be modified or revoked except upon concurrence of all agencies involved.

(i) Federal Grants and Loans. In order to carry out the purposes of this act to secure the greatest possible benefits to the citizens of this State of the funds appropriated, the State Treasurer, the Local Government Commission, and the Department of Environment, Health, and Natural Resources shall adopt rules and criteria, not inconsistent with provisions of this act, as are necessary and appropriate to conform to regulations for federal grants and loans for any of the purposes set forth in this act.

(j) Reports. The Department of Environment, Health, and Natural Resources shall prepare and file each year on or before July 31 with the Joint Legislative Commission on Governmental Operations a report for the preceding fiscal year concerning the allocation and making of loans authorized by this act. The report shall set forth for the preceding fiscal year:

(1) Itemized and total allocations of loans authorized and unallocated funds for the loan program as of the end of the preceding fiscal year;

(2) Identification of each loan agreement entered into by the State during the preceding fiscal year and the total amount of loans authorized by such loan agreements;

(3) The amount disbursed to each local government unit pursuant to such loan agreements during the preceding fiscal year and the total amount of such disbursements;

(4) The loan repayments made by each local government unit pursuant to such loan agreements and the total amount of such loan repayments during the preceding fiscal year; and

(5) A summary for all preceding years of the information required by subdivisions (1) through (4).

The report shall be signed by the Secretary of Environment, Health, and Natural Resources.

(k) Local Government Commission.

(1) Local government units may execute debt instruments payable to the State in order to obtain loans provided for in this act. Local government units shall pledge or agree to apply as security for such obligations:

a. Any available source of revenues of the local government unit, including revenues from benefitted facilities or systems, provided that (i) the local government unit has not otherwise pledged the revenues as security for, or contractually agreed to apply the revenues to, the payment of any other obligations of the local government unit, (ii) the use of the revenues is not otherwise restricted by law, or (iii) the revenues are not derived from the exercise of the local government unit's taxing power; or

b. Their faith and credit; or

c. Any combination of a. or b. above.

The faith and credit of a local government unit shall not be pledged or be deemed to have been pledged unless the requirements of Article 4 of Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use under this act.

(2) Nothing contained in this act shall prohibit any local government unit from applying any funds of the local government unit not otherwise restricted as to use by law to the payment of any debt instrument payable to the State incurred pursuant to the provisions of this act.

(3) The Local Government Commission shall review and approve proposed loans to local government units under this act under the provisions of Articles 4 and 5 of Chapter 159 of the General Statutes. The Local Government Commission in considering the ability of a local government unit to repay a loan may regard as a source of revenue for repayment of a loan revenue sources that may not be available other than on an annual discretionary basis and that may not be subject to

a pledge or agreement to apply. Loans under this act shall be outstanding debts for the purposes of Article 10 of Chapter 159 of the General Statutes.

(4) The State Treasurer shall annually certify to the General Assembly the financial condition of the loan program and identify existing delinquencies.

Sec. 11. Community college and State parks reports. (a) Community Colleges Projects Report.

(1) There is established the Legislative Study Commission on Community College Capital Needs. The Commission shall be composed of twelve members: (i) five Senators appointed by the President Pro Tempore of the Senate; (ii) five Representatives appointed by the Speaker of the House of Representatives, and (iii) the President of the Community College System and the Chair of the State Board of Community Colleges each of whom shall serve as an ex officio, nonvoting member. All voting members shall be appointed within 30 days after adjournment of the 1993 Regular Session of the 1993 General Assembly.

(2) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one appointee as cochair. These cochairs shall jointly call the first meeting and shall preside at alternate meetings.

(3) The Commission shall study and evaluate the issue of present and future capital needs of the Community College System. The Commission shall evaluate all objective, meaningful factors relevant to determining capital needs and shall design a mechanism for establishing and ranking legitimate capital need priorities for the Community College System. This mechanism shall be designed to enable the State to generate, from time to time, priority rankings of community college projects to which public funds can be allocated with confidence and integrity. The Commission shall also recommend a list of valid, priority projects to be funded with the remaining proceeds of the Community College Bonds not already allocated in this act. The Commission's study and recommendations shall be based on all of the following:

a. Consideration of the fundamental mission of the Community College System to provide job training and workforce preparedness.

b. Assignment of high priority to facilities that will enhance occupational training by programs with high or critical occupational demands.

c. Assignment of high priority to facilities to be used in regional programs.
d. Consideration of the ability of students to have access to existing programs through the availability of technology and transportation.
e. Consideration of the possible negative impact of new facilities on other existing colleges, campuses, and centers.
f. Consideration of the adequacy of existing facilities in relation to the number of full-time equivalent students.
g. Consideration of trends of increasing and decreasing enrollment at some colleges.
h. Consideration of whether the project is needed to meet a current need as opposed to a projected future need.
i. Consideration, in evaluating the rank order for capital projects, of the following criteria, which are included in the State Board of Community Colleges' capital outlay resource allocation funding formula:
--Space to population ratio.
--Population served ratio.
--Capacity enrollment ratio.
--Local to State and vocational education ratios.
--Type of project.
--Readiness to implement.

(4) Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.

(5) The Commission cochairs may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02 and may purchase or contract for the materials and services the Commission needs.

The Legislative Services Commission, through the Legislative Administrative Officer, may assign professional staff to assist in the work of the Commission. The Supervisors of Clerks of the House of Representatives and of the Senate, upon the direction of the Legislative Services Commission, shall assign clerical staff to the Commission. The expenses related to the clerical employees shall be borne by the Commission.

(6) The Commission, with the approval of the Legislative Services Commission, may meet in the Legislative Building or the Legislative Office Building.

(7) The Commission shall make a final report to the General Assembly by April 1, 1994.

(8) Upon the request of the Commission, all State departments and agencies, all local governments and their subdivisions, and all institutions and departments under the jurisdiction of the State Board of Community Colleges shall furnish the Commission with any information in their possession or available to them.

(9) The Legislative Services Commission shall allocate funds for the work of the Legislative Study Commission on Community College Capital Needs from funds appropriated in Chapter 321 of the 1993 Session Laws to the General Assembly for the 1993-94 fiscal year.

(b) State Parks Capital Improvement and Land Acquisition Plan. The Department of Environment, Health, and Natural Resources shall develop a State parks capital improvement and land acquisition plan that recommends two priority lists of needed projects for the entire park system, one priority list for renovations, repairs, and new construction, and one priority list for land acquisition. The priority lists shall be based on objective criteria and shall include the costs of each project and the basis for calculating the costs. The priority list for land acquisition shall include total projected costs equal to no more than thirty percent (30%) of the total amount of State Parks Bonds authorized in this act. The Department of Environment, Health, and Natural Resources shall report its recommendations to the 1993 General Assembly by the first day of the 1994 Regular Session.

Sec. 12. (a) G.S. 159G-4(b) reads as rewritten:

"(b) Of the appropriations made from the General Fund to the Clean Water Revolving Loan and Grant Fund for use of the Department of Environment, Health, and Natural Resources as provided in this Chapter, allocations are made as follows after first subtracting the amounts allocated under subsection (a) of this section, to the extent that there are any excess funds available:

Wastewater Accounts	
General Wastewater Revolving Loan Account	~~45.00%~~ 39.00%
Emergency Wastewater Revolving Loan Account	~~14.00%~~ 10.00%
High-Unit Cost Wastewater Account	~~10.00%~~ 20.00%
Water Supply Accounts	
General Water Supply Revolving Loan Account	~~23.00%~~ 21.00%
High-Unit Cost Water Supply Account	~~3.00%~~ 5.00%

Emergency Water Supply Revolving Loan Account 5.00%".

(b) G.S. 159G-6(a) reads as rewritten:

"(a) Revolving loans and grants.

(1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to local government units for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.

(2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one local government unit during any fiscal year shall be three million dollars ($3,000,000). The maximum principal amount of grants made to any one local government unit during any fiscal year shall be ~~five hundred thousand dollars ($500,000),~~ one million dollars ($1,000,000).

(3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his responsibilities under this section, the State Treasurer shall make a written request to the Department of Environment, Health, and Natural Resources to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to a local government unit to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the local government unit to provide funds for one or more revolving loans or grants."

(c) If a majority of those voting on the question of the issuance of one hundred forty-five million dollars ($145,000,000) State of North Carolina Clean Water Bonds in the election held as provided in Section 7 of this act vote in favor of the issuance of the bonds, this section becomes effective January 1, 1994. If a majority of those voting on the question of the issuance of one hundred forty-five million dollars ($145,000,000) State of North Carolina Clean Water Bonds in the election held as provided in Section 7 of this act vote against the issuance of the bonds, this section does not become effective.

Sec. 13. G.S. 142-29.5 reads as rewritten:

"*§ 142-29.5. Authorization of refunding obligations.*

By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell, from time to time, refunding obligations for the purpose of refunding outstanding obligations as and to the extent authorized by this Article. The principal amount of any such refunding obligations shall not exceed the principal amount of outstanding obligations to be ~~refunded,~~ refunded unless (i) the refunding results in an aggregate debt service savings and (ii) the increase in the principal amount issued does not create cash-in-hand available for new capital improvements.

Refunding obligations issued pursuant to the provisions of this Article shall not be subject to limitations imposed by any other law including, without limitation, the other Articles of this Chapter."

Sec. 14. Minority business participation. The goals set by G.S. 143-128 for participation in projects by minority businesses apply to projects funded by the proceeds of bonds or notes issued under this act. The following State agencies shall monitor compliance with this requirement and shall report to the General Assembly by January 1 of each year on the participation by minority businesses in these projects. The State Construction Office, Department of Administration, shall monitor compliance with regard to projects funded by the proceeds of University Improvement Bonds and notes; the Board of Governors of The University of North Carolina shall provide the State Construction Office any information required by the State Construction Office to monitor compliance. The Department of Community Colleges shall monitor compliance with regard to projects funded by the proceeds of Community College Bonds and notes. The Department of Environment, Health, and Natural Resources shall monitor compliance with regard to projects funded by the proceeds of Clean Water Bonds and notes.

Sec. 15. Interpretation of act. (a) Additional Method. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

(b) Statutory References. References in this act to specific sections or Chapters of the General Statutes or to specific acts are intended to be references to these sections, Chapters, or acts as they may be amended from time to time by the General Assembly.

(c) Liberal Construction. This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect the purposes thereof.

(d) Inconsistent Provisions. Insofar as the provisions of this act are inconsistent with the provisions of any general laws, or parts thereof, the provisions of this act shall be controlling.

(e) Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 16. Effective date. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 161 **CHAPTER 543**

AN ACT TO ALLOW ALL TRAILERS TO OBTAIN MULTIYEAR LICENSE PLATES, TO INCREASE THE TYPES OF SPECIAL LICENSE PLATES, TO SPECIFY HOW FEES FROM THE NEW SPECIAL LICENSE PLATES ARE TO BE USED, TO MODIFY THE APPEARANCE OF THE SPECIAL LICENSE PLATE ISSUED TO MEMBERS OF THE NORTH CAROLINA GENERAL ASSEMBLY, AND TO MAKE TECHNICAL AND ADMINISTRATIVE CHANGES TO THE LAWS CONCERNING SPECIAL LICENSE PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88(c) reads as rewritten:

"(c) ~~There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of trailers or semitrailers,~~ The fee for a semitrailer or trailer is ten dollars ($10.00) for each year or ~~any~~ part of ~~the license year for which said license is issued,~~ a year. The fee is payable on or before January 1 of each year. Upon the application of the owner of a ~~semitrailer,~~ semitrailer or trailer, the Division may issue a multiyear plate and registration card for the semitrailer or trailer for a fee of seventy-five dollars ($75.00). A multiyear plate and registration card for a semitrailer or trailer are valid until the owner transfers the semitrailer or trailer to another person or surrenders the plate and registration card to the Division. A multiyear plate may not be transferred to another vehicle.

The Division shall issue a multiyear semitrailer or trailer plate in a different color than an annual semitrailer or trailer plate and shall include the word 'multiyear' on the plate. The Division may not issue a multiyear plate for a house trailer."

Sec. 2. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. -- The Division shall issue the following types of special registration plates:

(1) Administrative Officer of the Courts. -- Issuable to the Director of the Administrative Office of the Courts. The plate shall bear the phrase 'J-20'.

(2) Amateur Radio Operator. -- Issuable to an amateur radio operator who holds an unexpired and unrevoked amateur radio license issued by the Federal Communications Commission and who asserts to the Division that a portable transceiver is carried in the vehicle. The plate shall bear the phrase 'Amateur ~~Radio.~~' Radio'. The plate shall bear the operator's official amateur radio call letters, or call letters with numerical or letter suffixes so that an owner of more than one vehicle may have the call letters on each.

(2a) American Legion. -- Issuable to a member or a supporter of the American Legion. The plate shall bear the words 'American Legion' and the emblem of the American Legion. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(3) Civil Air Patrol Member. -- Issuable to an active member of the North Carolina Wing of the Civil Air Patrol. The plate shall bear the phrase 'Civil Air Patrol'. A plate issued to an officer member shall begin with the number '201' and the number shall reflect the seniority of the member; a plate issued to an enlisted member, a senior member, or a cadet member shall begin with the number '501'.

(3a) Civic Club. -- Issuable to a member of a nationally recognized civic organization whose member clubs in the State are exempt from State corporate income tax under G.S. 105-130.11(a)(5). Examples of these clubs include Jaycees, Kiwanis, Optimist, Rotary, Ruritan, and Shrine. The plate shall bear a word or phrase identifying the civic club and the emblem of the civic club. The Division may not issue a civic club plate authorized by this subdivision unless it receives at least 300 applications for that civic club plate.

(4) Class D Citizen's Radio Station Operator. -- Issuable to a Class D citizen's radio station ~~operator licensed by the Federal Communications Commission,~~ operator. ~~The~~ For an operator who has been issued Class D citizen's radio station call letters by the Federal Communications

Commission, the plate shall bear the operator's official Class D citizen's radio station call letters. For an operator who has not been issued Class D citizen's radio station call letters by the Federal Communications Commission, the plate shall bear the phrase 'Citizen's Band Radio'.

(5) Clerk of Superior Court. -- Issuable to a clerk of superior court. The plate shall bear the phrase 'Clerk Superior Court' and the letter 'C' followed by a number that indicates the county the clerk serves.

(6) Coast Guard Auxiliary Member. -- Issuable to an active member of the United States Coast Guard Auxiliary. The plate shall bear the phrase 'Coast Guard Auxiliary'.

(6a) Collegiate Insignia Plate. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a public or private college or university.

(7) County Commissioner. -- Issuable to a county commissioner of a county in this State. The plate shall bear the words 'County Commissioner' followed first by a number representing the commissioner's county and then by a letter or number that distinguishes plates issued to county commissioners of the same county. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list and a letter or number to distinguish different cars owned by the county commissioners in that county. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate. ~~Congressional Medal of Honor Recipient. -- Issuable to a recipient of the Congressional Medal of Honor.~~

(8) Disabled Veteran. -- Issuable to a veteran of the armed forces of the United States who suffered a 100% service-connected disability.

(9) District Attorney. -- Issuable to a North Carolina or United States District Attorney. The plate issuable to a North Carolina district attorney shall bear the letters 'DA' followed by a number that represents the prosecutorial district the district attorney serves. The plate for a United States attorney shall bear the phrase 'U.S. Attorney' followed by a number that represents the district the attorney serves, with 1 being the Eastern District, 2 being the Middle District, and 3 being the Western District.

(10) Fire Department or Rescue Squad Member. -- Issuable to an active regular member or volunteer member of a fire department, rescue squad, or both a fire department and rescue squad. The plate shall bear the words 'Firefighter', 'Rescue Squad', or 'Firefighter-Rescue Squad'.

(10a) Future Farmers of America. -- Issuable to a member or a supporter of the National Future Farmers of America Organization. The plate shall bear the emblem of the organization and the letters 'FFA'. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(11) Historic Vehicle Owner. -- Issuable for a motor vehicle that is at least 35 years old measured from the date of manufacture. ~~The plate for a vehicle that is 35 to 50 years old shall bear the phrase 'Antique'. The plate for a vehicle that is at least 50 years old shall bear the phrase 'Horseless Carriage'.~~ The plate for an historic vehicle shall bear the word 'Antique' unless the vehicle is a model year 1943 or older. The plate for a vehicle that is a model year 1943 or older shall bear the word 'Antique' or the words 'Horseless Carriage', at the option of the vehicle owner.

(11a) Historical Attraction Plate. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a publicly owned or nonprofit historical attraction located in North Carolina.

(12) Honorary Plate. -- Issuable to a member of the Honorary ~~Consulor~~ Consular Corps, who has been certified by the U. S. State Department, the plate shall bear the words 'Honorary ~~Consulor~~ Consular Corps' and a distinguishing number based on the order of issuance.

(13) Judge or Justice. -- Issuable to a sitting or retired judge or justice in accordance with G.S. 20-79.6.

(13a) Legion of Valor. -- Issuable to a recipient of one of the following military decorations: the Congressional Medal of Honor, the Distinguished Service Cross, the Navy Cross, or the Air Force Cross. The plate shall bear the emblem and name of the recipient's decoration.

(14) Legislator. -- Issuable to a member of the North Carolina General Assembly. The plate shall bear 'The Great Seal of the State of North Carolina' and, as appropriate, the

~~words~~ word 'Senate' or ~~'State House'~~ 'House' followed by the Senator's or Representative's assigned seat number.

(15) Marshal. -- Issuable to a United States Marshal. The plate shall bear the phrase 'U.S. Marshal' followed by a number that represents the district the Marshal serves, with 1 being the Eastern District, 2 being the Middle District, and 3 being the Western District.

(16) Military Reservist. -- Issuable to a member of a reserve component of the armed forces of the United States. The plate shall bear the name and insignia of the appropriate reserve component. Plates shall be numbered sequentially for members of a component with the numbers 1 through 5000 reserved for officers, without regard to rank.

(16a) Military Retiree. -- Issuable to an individual who has retired from the armed forces of the United States. The plate shall bear the ~~phrase 'U.S. Armed Forces Retired'~~ word 'Retired' and the name and insignia of the branch of service from which the individual retired. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(17) National Guard Member. -- Issuable to an active or a retired member of the North Carolina National Guard. The plate shall bear the phrase 'National Guard'. A plate issued to an active member shall bear a number that reflects the seniority of the member; a plate issued to a commissioned officer shall begin with the number '1'; a plate issued to a noncommissioned officer with a rank of E7, E8, or E9 shall begin with the number '1601'; a plate issued to an enlisted member with a rank of E6 or below shall begin with the number '3001'. The plate issued to a retired or separated member shall indicate the member's retired status.

(18) Partially Disabled Veteran. -- Issuable to a veteran of the armed forces of the United States who suffered a service connected disability of less than 100%.

(19) Pearl Harbor Survivor. -- Issuable to a veteran of the armed forces of the United States who was present at and survived the attack on Pearl Harbor on December 7, 1941. The plate will bear the phrase 'Pearl Harbor Survivor' and the insignia of the Pearl Harbor Survivors' Association.

(20) Personalized. -- Issuable to the registered owner of a motor vehicle. The plate will bear the letters or letters and numbers requested by the owner. The Division may

refuse to issue a plate with a letter combination that is offensive to good taste and decency. The Division may not issue a plate that duplicates another plate.

(21) Prisoner of War. -- Issuable to a the following:

a. A member or veteran member of the armed forces of the United States who has been captured and held prisoner by forces hostile to the United States while serving in the armed forces.

b. The surviving spouse of a person who had a prisoner of war plate at the time of death so long as the surviving spouse continues to renew the plate and does not remarry.

(22) Purple Heart Recipient. -- Issuable to a recipient of the Purple Heart award. The plate shall bear the phrase 'Purple Heart Veteran, Combat Wounded' and the letters 'PH'.

(22a) Register of Deeds. -- Issuable to a register of deeds. The plate shall bear the words 'Register of Deeds' and the letter 'R' followed by a number representing the county of the register of deeds. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list.

(22b) Special Olympics. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing the North Carolina Special Olympics.

(23) State Government Official. -- Issuable to elected and appointed members of State government in accordance with G.S. 20-79.5.

(23a) State Attraction. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a publicly owned or nonprofit State attraction located in North Carolina.

(24) Street Rod Owner. -- Issuable to the registered owner of a modernized private passenger motor vehicle manufactured prior to the year 1949 or designed to resemble a vehicle manufactured prior to the year 1949. The plate shall bear the phrase 'Street Rod'. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(25) Transportation Personnel. -- Issuable to various members of the Divisions of the Department of Transportation.

The plate shall bear the letters 'DOT' followed by a number from 1 to 85, as designated by the Governor.

(26) U.S. Representative. -- Issuable to a United States Representative for North Carolina. The plate shall bear the phrase 'U.S. House' and shall be issued on the basis of Congressional district numbers.

(27) U.S. Senator. -- Issuable to a United States Senator for North Carolina. The plates shall bear the phrase 'U.S. Senate' and shall be issued on the basis of seniority represented by the numbers 1 and 2.

(28) Veterans of Foreign Wars. -- Issuable to a member or a supporter of the Veterans of Foreign Wars. The plate shall bear the words 'Veterans of Foreign Wars' or 'VFW' and the emblem of the VFW. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(29) Wildlife Resources. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture representing a native wildlife species occurring in North Carolina."

Sec. 3. G.S. 20-79.7 reads as rewritten:

"*§ 20-79.7. Fees for ~~Special Registration Plates~~ special registration plates and distribution of the fees.*

(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Special Olympics	$25.00
Wildlife Resources	$20.00
Personalized	$20.00
~~All other Special Plates~~	~~$10.00~~
Active Member of the National Guard	None
All Other Special Plates	$10.00.

(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and ~~Historical~~ Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA),

the Collegiate and ~~Historical~~ Cultural Attraction Plate Account ~~(CHAPA)~~ (CCAPA), and the Recreation and Natural Heritage Trust Fund (RNHTF), which is established under G.S. 113-77.7, as follows:

~~Special Plate~~ Special Plate	~~SRPA~~ SRPA	~~CHAPA~~ CCAPA	~~RNHTF~~ RNHTF
~~Historical~~ Attraction	~~$10~~	~~$20~~	~~0~~
In-State Collegiate Insignia	$10	$15	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Special Olympics	$10	$15	0
State Attraction	$10	$20	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0.

(c) Use of Funds in Special Registration Plate Account. -- The Division shall deduct the costs of special registration plates, including the costs of issuing, handling, and advertising the availability of the special plates, from the Special Registration Plate Account. The Division shall transfer the remaining revenue in the Account quarterly as follows:

(1) Thirty-three percent (33%) to the account of the Department of Economic and Community Development to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in this State.

(2) Fifty percent (50%) to the Department of Transportation to be used solely for the purpose of beautification of highways other than those designated as interstate. These funds shall be administered by the Department of Transportation for beautification purposes not inconsistent with good landscaping and engineering principles.

(3) Seventeen percent (17%) to the account of the Department of Human Resources to promote travel accessibility for disabled persons in this State. These funds shall be used to collect and update site information on travel attractions designated by the Department of Economic and Community Development in its publications, to provide technical assistance to travel attractions concerning accommodation of disabled tourists, and to develop, print, and promote the publication ACCESS NORTH CAROLINA as provided in G.S.168-2. Any funds allocated for these purposes that are neither spent nor obligated at the end of the fiscal year shall be transferred to the Department of Administration for removal of man-made barriers to disabled travelers at State-

funded travel attractions. Guidelines for the removal of man-made barriers shall be developed in consultation with the Department of Human Resources."

Sec. 4. G.S. 105-330.1 reads as rewritten:

"§ *105-330.1. Classification of motor vehicles.*

All motor vehicles, except (i) motor vehicles exempt from registration pursuant to G.S. 20-51, (ii) manufactured homes, mobile classrooms, and mobile offices, (iii) semitrailers or trailers registered on a multiyear ~~basis under G.S. 20-88(c),~~ basis, and (iv) motor vehicles owned by a public service company or leased by a public service company and included in the company's system property under G.S. 105-335, are hereby designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Classified motor vehicles shall be listed and assessed as provided in this Article and taxes on classified motor vehicles shall be collected as provided in this Article."

Sec. 5. G.S. 20-81.12 reads as rewritten:

"§ *20-81.12. Collegiate insignia ~~plates, high school insignia plates, and historical attraction~~ plates and certain other special plates.*

(a) Collegiate Insignia Plates. -- The Division must receive 300 or more applications for a collegiate insignia license plate for a college or university before a collegiate license plate may be developed. The color, design, and material for the plate must be approved by both the Division and the alumni or alumnae association of the appropriate college or university. The Division must transfer quarterly the money in the Collegiate and ~~Historical~~ Cultural Attraction Plate Account derived from the sale of in-State collegiate insignia plates to the Board of Governors of The University of North Carolina for in-State, public colleges and universities and to the respective board of trustees for in-State, private colleges and universities in proportion to the number of collegiate plates sold representing that institution for use for academic enhancement.

(b) Historical Attraction Plates. -- The Division must receive 300 or more applications for an historical attraction plate representing a publicly owned or nonprofit historical attraction located in North Carolina and listed below before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and ~~Historical~~ Cultural Attraction Plate Account derived from the sale of historical attraction plates to the organizations named below in proportion to the number of historical attraction plates sold representing that organization:

(1) Historical Attraction Within Historic District. -- The revenue derived from the special plate shall be transferred quarterly to the appropriate Historic Preservation Commission, or

entity designated as the Historic Preservation Commission, and used to maintain property in the historic district in which the attraction is located. As used in this subdivision, the term 'historic district' means a district created under G.S. 160A-400.4.

(2) Nonprofit Historical Attraction. -- The revenue derived from the special plate shall be transferred quarterly to the nonprofit corporation that is responsible for maintaining the attraction for which the plate is issued and used to develop and operate the attraction.

(3) State Historic Site. -- The revenue derived from the special plate shall be transferred quarterly to the Department of Cultural Resources and used to develop and operate the site for which the plate is issued. As used in this subdivision, the term 'State historic site' has the same meaning as in G.S. 121-2(11).

(c) Special Olympics Plates. -- The Division must receive 300 or more applications for a special olympics plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of special olympics plates to the North Carolina Special Olympics, Inc., to be used to train volunteers to assist in the statewide games and to help pay the costs of the statewide games.

(d) State Attraction Plates. -- The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

(1) The North Carolina Arboretum. -- The revenue derived from the special plate shall be transferred quarterly to The North Carolina Arboretum Society and used to help the Society obtain grants for the North Carolina Arboretum and for capital improvements to the North Carolina Arboretum.

(2) The North Carolina Zoological Society. -- The revenue derived from the special plate shall be transferred quarterly to The North Carolina Zoological Society, Incorporated, to be used for educational programs and conservation programs at the North Carolina Zoo at Asheboro and for operating expenses of the North Carolina Zoo at Asheboro.

(e) Wildlife Resources Plates. -- The Division must receive 300 or more applications for a wildlife resources plate with a picture representing a particular native wildlife species occurring in North

Carolina before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of wildlife resources plates to the Wildlife Conservation Account established by G.S. 143-247.2.

~~(c)~~ (f) General. -- An application for a special license plate named in this section may be made at any time during the year. If the application is made to replace an existing current valid plate, the special plate must be issued with the appropriate decals attached. No refund shall be made to the applicant for any unused portion remaining on the original plate. The request for a special license plate named in this section may be combined with a request that the plate be a personalized license plate.

~~(d) through (g) Repealed by Session Laws 1991 (Regular Session, 1992), c. 1042, s. 3, effective January 1, 1993."~~

Sec. 6. G.S. 105-269.5 reads as rewritten:

"*§ 105-269.5. Contribution of income tax refund to Wildlife ~~Fund.~~ Conservation Account.*

Any taxpayer entitled to a refund of income taxes under Article 4 of this Chapter may elect to contribute all or part of the refund to the Wildlife ~~Fund for the support of wildlife management and protection programs primarily for nongame wildlife species and wildlife species which are or may hereafter be designated as endangered or threatened.~~ Conservation Account established under G.S. 143-247.2 to be used for the management, protection, and preservation of wildlife in accordance with that statute. The Secretary ~~of Revenue~~ shall provide appropriate language and space on the income tax form in which to make the election. The taxpayer's election ~~shall become~~ becomes irrevocable upon filing the taxpayer's income tax return for the taxable year. The Secretary ~~of Revenue~~ shall transmit the contributions made pursuant to this section to the State Treasurer for credit to the Wildlife ~~Fund to be used by the Wildlife Resources Commission only for the support of management and protection programs primarily for nongame wildlife and endangered and threatened species and to match federal funds which may become available for these purposes.~~ Conservation Account."

Sec. 7. G.S. 143-247.2 reads as rewritten:

"*§ 143-247.2. ~~Contributions for nongame wildlife.~~ Wildlife Conservation Account; emblems for those who donate to the Account.*

(a) Account. -- The Wildlife Conservation Account is established within the Wildlife Resources Fund. Revenue is credited to the Account from donations of income tax refunds, from other donations, and from revenue derived from the sale of wildlife resources license plates. The Commission may use revenue in the Account only for the following purposes:

(1) To manage, preserve, or protect wildlife species that are endangered, threatened, or of special concern and are included on the State's protected animal lists.

(2) To manage, preserve, or protect nongame wildlife species that are not on the State's protected animal lists.

(3) To administer and enforce nongame wildlife programs under the jurisdiction of the Commission.

(b) Emblems. -- The ~~Wildlife Resources~~ Commission ~~is hereby authorized to~~ may issue and sell appropriate emblems by which to identify recipients ~~thereof~~ of the emblems as contributors to ~~a special wildlife conservation fund which shall be held and accounted for as a separate part of the Wildlife Resources Fund and which shall be made available to the Wildlife Resources Commission for conservation, protection, enhancement, preservation and perpetuation of nongame wildlife species and those species which may be endangered or threatened with extinction. The special wildlife conservation fund will be audited by the State Auditor.~~ the Wildlife Conservation Account. Emblems of different size, shape, ~~type~~ type, or design may be used to recognize contributions in different ~~amounts, but no such emblem shall be issued~~ amounts. The Commission may not issue an emblem for a contribution ~~amounting in value to~~ of less than five dollars ($5.00)."

Sec. 8. This act is effective upon ratification. The change made by this act to G.S. 20-79.4(b)(14) applies to plates issued for legislators serving in the 1995 General Assembly and subsequent Assemblies.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 853 **CHAPTER 544**

AN ACT TO AUTHORIZE CERTAIN COUNTIES THAT WILL DERIVE ECONOMIC BENEFITS FROM THE NORTH CAROLINA GLOBAL TRANSPARK TO FORM A GLOBAL TRANSPARK DEVELOPMENT ZONE TO PROMOTE ECONOMIC DEVELOPMENT OF, AND TO ENCOURAGE INFRASTRUCTURE CONSTRUCTION IN, THE COUNTIES OF THE ZONE.

Whereas, the State of North Carolina, acting through the North Carolina Air Cargo Airport Authority, now known as the North Carolina Global TransPark Authority, has designated the Kinston Regional Jetport as the location of the cargo airport and the air transportation complex to be developed; and

Whereas, the Global TransPark Complex, an approximately four to six thousand acre site surrounding the existing jetport, will contain a modern airport large enough to handle the largest aircraft and will be dedicated to the rapid movement of freight and passengers by air with intermodal connecting links with rail, highway, and water transportation facilities; and

Whereas, the Global TransPark Complex will be surrounded by a large area, to be known as the North Carolina Global TransPark, which will include commercial and industrial sites providing attractive locations for businesses and industries of differing sizes and varying kinds; and

Whereas, the General Assembly anticipates that the North Carolina Global TransPark will stimulate economic growth and the creation of job opportunities in a wide area in Eastern North Carolina; and

Whereas, to promote the economic development of, and construction of infrastructure projects within, the North Carolina Global TransPark and the counties of North Carolina that will derive economic benefits from the Global TransPark, the General Assembly desires to authorize certain counties to form an economic development district, to be known as the Global TransPark Development Zone, and a body to govern the district, to be known as the Global TransPark Development Commission; and

Whereas, the General Assembly desires to authorize the Global TransPark Development Zone to levy a temporary five dollar ($5.00) motor vehicle registration tax on vehicles with a tax situs within the Zone for a period of no more than five years, to generate funds to be used by the Global TransPark Development Commission for economic development projects to retain or attract, and infrastructure construction projects to support businesses and industries that are located, or may be located, in the Zone; and

Whereas, the counties that form the Zone can most effectively meet their own needs in carrying out development and infrastructure projects related to the development of the North Carolina Global TransPark by cooperative efforts, coordinated planning, and concerted actions through the Global TransPark Development Zone; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 158 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 4.
"Global TransPark Development Zone.

"*§ 158-30. Title.*

This Article shall be known as the 'Global TransPark Development Zone Act'.

"*§ 158-31. Purpose.*

The purpose of this Article is to allow the following counties, which have the potential to derive direct economic benefits from the North Carolina Global TransPark, to create a special economic development district, to be known as the Global TransPark Development Zone: Carteret, Craven, Duplin, Edgecombe, Greene, Jones, Lenoir, Nash, New Hanover, Onslow, Pamlico, Pitt, Wayne, and Wilson.

The purpose of the Global TransPark Development Zone is to promote the development of the North Carolina Global TransPark and to promote and encourage economic development within the territorial jurisdiction of the Zone by fostering or sponsoring development projects to provide land, buildings, facilities, programs, information and data systems, and infrastructure requirements for business and industry in the North Carolina Global TransPark outside of the Global TransPark Complex, and elsewhere in the Zone.

"*§ 158-32. Definitions.*

The following definitions apply in this Article:

(1) Authority. -- The North Carolina Air Cargo Airport Authority created under Chapter 63A of the General Statutes, doing business as the North Carolina Global TransPark Authority.

(2) Commission. -- The Global TransPark Development Commission, the governing body of the Global TransPark Development Zone.

(3) Global TransPark Complex. -- The approximately four to six thousand acre site designated by the Authority for a cargo airport and related facilities in Lenoir County. The site will contain a modern airport large enough to handle the largest aircraft and will be dedicated to the rapid movement of freight and passengers by air with intermodal connecting links with rail, highway, and water transportation facilities.

(4) North Carolina Global TransPark. -- A large area surrounding and including the Global TransPark Complex, which will contain commercial and industrial sites providing attractive locations for business and industry of differing sizes and varying kinds.

(5) Unit of local government. -- A local subdivision or unit of government or a local public corporate entity, including any type of special district or public authority.

(6) Zone. -- The Global TransPark Development Zone, an economic development district created pursuant to this Article.

"*§ 158-33. Creation of Global TransPark Development Zone.*

(a) Resolution to Create Zone. -- Any three or more of the counties listed in G.S. 158-31 may create the Global TransPark Development Zone as provided in this section. In order to create the Zone, the governing bodies of the counties creating the Zone must first adopt, on or before October 1, 1993, substantially similar resolutions stating their intent to organize the Zone pursuant to this Article. Each resolution shall include articles of incorporation for the Zone which shall set forth the following:

(1) The name of the Zone, which shall be the 'Global TransPark Development Zone'.

(2) A statement that the Zone is organized under this Article.

(3) The names of the organizing counties known to the county adopting the resolution.

(b) Public Hearing. -- Each resolution may be adopted only after a public hearing on the question, notice of which hearing has been given by publication at least once after July 25, 1993, and not less than 10 days before the date set for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, set forth the proposed articles of incorporation of the Zone, and state the time and place of the public hearing to be held on the resolution. No other publication or notice of the resolution is required.

(c) Incorporation of Zone. -- Each county that adopts a resolution as provided in this section shall file a certified copy of the resolution with the Secretary of State on or before October 15, 1993, together with proof of publication of notice of the hearing on the resolution. Each resolution must contain the county clerk's attestation that it was adopted by the board of commissioners. If the Secretary of State finds that the resolutions, including the articles of incorporation, conform to the provisions of this Article and that notices of the hearings were properly published, the Secretary of State shall file the resolutions and proofs of publication and shall issue a certificate of incorporation for the Zone under the seal of the State. The Secretary of State shall record the certificate of incorporation in an appropriate book of record in the Secretary of State's office.

(d) Effect of Incorporation. -- The issuance of the certificate of incorporation by the Secretary of State shall constitute the Global

TransPark Development Zone a public body and body politic and corporate of the State. The certificate of incorporation shall be conclusive evidence that the Zone has been duly created and established under this Article.

"§ *158-34. Territorial jurisdiction of Zone.*

The territorial jurisdiction of the Zone created pursuant to this Article shall be coterminous with the boundaries of the counties participating in the Zone.

"§ *158-35. Commission membership, officers, compensation.*

(a) Commission Membership. -- The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

(1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a minority person as defined in G.S. 143-128(c) and one of whom may be a member of the board of commissioners.

(2) The Authority shall appoint at least three but no more than seven voting members. By the appointment of these members, the Authority shall ensure that the voting membership of the Commission includes at least seven women and seven members of a racial minority described in G.S. 143-128(c). The Authority shall appoint the fewest number of members necessary to achieve these minimums.

(3) Four nonvoting members shall be appointed as follows:

a. One appointed by the Chancellor of East Carolina University to represent the University.

b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.

c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.

d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board.

(b) Terms. -- Members of the Commission shall serve for staggered four-year terms. The members appointed by the Chancellor of East Carolina University and by the chair of the State Ports Authority shall serve an initial term of two years. The members appointed by the community colleges located in the Zone and by the board of directors of the Global TransPark Foundation, Inc., shall serve an initial term of four years. The Authority shall designate at least one-half of its appointees to serve an initial term of two years; its remaining appointees shall serve an initial term of four years. Each

board of commissioners shall designate one of its appointees to serve an initial term of four years, one to serve an initial term of two years, and one to serve an initial term to be determined at the first meeting of the Commission. One-half of the appointees designated to serve an undetermined initial term shall serve an initial term of two years, as determined by lot at the first meeting of the Commission. The remainder of the appointees designated to serve an undetermined initial term shall serve an initial term of four years. Initial terms begin upon approval by the Secretary of State of the articles of incorporation.

(c) Removal; Vacancies. -- A member of the Commission may be removed with or without cause by the appointing body. Appointments to fill vacancies shall be made for the remainder of the unexpired term by the respective appointing authority. All members shall serve until their successors are appointed and qualified, unless removed from office.

(d) Dual Office Holding. -- Service on the Commission may be in addition to any other office a person is entitled to hold.

(e) Officers. -- The Commission shall annually elect from its membership a chairperson and a vice-chairperson, and shall annually elect a secretary and a treasurer. After the Commission has been duly organized and its officers elected as provided in this section, the secretary of the Commission shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the Commission.

(f) Compensation. -- The members of the Commission shall receive no compensation other than travel, subsistence, and reasonable per diem expenses determined by the Commission for attendance at Commission meetings and other official Zone functions.

"§ *158-36. Voting.*

A majority of the Commission members shall constitute a quorum for the transaction of business. Each voting member of the Commission shall have one vote. The Commission may transact business only by majority vote of the voting members present and voting.

"§ *158-37. Powers of the Zone.*

(a) The general powers of the Zone include the following:

(1) The powers of a corporate body, including the power to sue and be sued and to adopt and use a common seal.

(2) To adopt bylaws and resolutions in accordance with this Article for its organization and internal management.

(3) To employ persons as necessary and to fix their compensation within the limit of available funds.

(4) With the approval of the unit of local government's chief administrative official, to use officers, employees, agents, and facilities of a unit of local government for purposes and upon terms agreed upon with the unit of local government.

(5) To make contracts, deeds, leases with or without option to purchase, conveyances, and other instruments, including contracts with the United States, the State of North Carolina, and units of local government.

(6) To acquire, lease as lessee with or without option to purchase, hold, own, and use any franchise or property or any interest in a franchise or property, within the limit of available funds.

(7) To transfer, lease as lessor with or without option to purchase, exchange, or otherwise dispose of any franchise or property or any interest in a franchise or property, within the limit of available funds.

(8) To surrender to the State of North Carolina any property no longer required by the Zone.

(b) The economic development powers of the Zone include the following, to the extent appropriate to carry out its purposes as provided in this Article:

(1) To levy a temporary annual motor vehicle registration tax on vehicles with a tax situs within the Zone, as provided in G.S. 158-42.

(2) To acquire, construct, improve, maintain, repair, operate, or administer any component part of a public infrastructure system or facility within the Zone, directly or by contract with a third party.

(3) Except as otherwise provided in this Article, to exercise the powers granted to a local government for development by G.S. 158-7.1 and the powers granted to certain local governments for development in G.S. 158-7.1(d1), except the power to levy a property tax.

(4) To make grants and loans to support economic development projects authorized by this Article within the Zone.

(5) Reserved.

(6) To contract with units of local government within the Zone to administer the issuance of permits and approvals required of businesses.

(7) To provide employee training programs to prepare workers for employment in the Zone.

(8) To gather and maintain information of an economic, a business, or a commercial character that would be useful to businesses within the Zone.

(9) To prepare specific site studies to assess the appropriateness of any area within the Zone for use or development by a business and to provide opportunities for businesses to examine sites.

(10) To exercise the powers of a regional planning commission as provided in G.S. 153A-395 and a regional economic development commission as provided in G.S. 158-13, but the Zone does not have the authority to establish land-use zoning in any county.

(11) To carry out the purposes of a consolidation and governmental study commission as provided in Article 20 of Chapter 153A of the General Statutes.

(12) To enter in a reasonable manner land, water, or premises within the Zone to make surveys, soundings, drillings, or examinations. Such an entry shall not constitute trespass, but the Zone shall be liable for actual damages resulting from such an entry.

(13) To monitor and encourage the use of utility corridors adjacent to intrastate and interstate highways within the Zone that are four-lane, divided, limited-access highways.

(14) To plan for and assist in the extension of natural gas within the Zone.

(15) To assist in the placement of an information highway within the Zone.

(16) To do all other things necessary or appropriate to carry out its purposes as provided in this Article.

"§ *158-38. Fiscal accountability.*

The Zone is a public authority subject to the provisions of Chapter 159 of the General Statutes.

"§ *158-39. Funds.*

The establishment and operation of the Zone are governmental functions and constitute a public purpose. The State of North Carolina and any unit of local government may appropriate or otherwise provide funds to support the establishment and operation of the Zone. The State of North Carolina and any unit of local government may also dedicate, sell, convey, donate, or lease any of their interests in property to the Zone. The Zone may apply for grants from the State of North Carolina, the United States, or any department, agency, or instrumentality of the State or the United States. Any department of State government may allocate to the Zone any funds the use of which is not restricted by law.

"§ *158-40. Tax exemption.*

Property owned by the Zone is exempt from taxation. This tax exemption does not apply to the lease, or other arrangement that

amounts to a leasehold interest, of Zone property to a private party, or to the income of the lessee, unless the property is leased solely for the purpose of the Zone, in which case the activities of the lessee are considered the activities of the Zone.

"*§ 158-41. Withdrawal; termination.*

(a) Withdrawal. -- A county participating in the Zone may, by resolution, withdraw from the Zone. A resolution withdrawing from the Zone may not become effective before the end of the fiscal year in which it is adopted. Upon adoption of a resolution withdrawing from the Zone, the board of commissioners of the county shall provide a copy of the resolution to the Secretary of State, the Commission, the Authority, and every other county participating in the Zone. Withdrawal does not entitle a county to early distribution of its beneficial interest in Zone assets, but a county that has withdrawn retains its right to any distributions that may be made to participating counties pursuant to subsection (b) of this section on the same basis as if it had not withdrawn. For all other purposes, a county that has withdrawn from the Zone no longer participates in the Zone.

(b) Termination. -- The Commission may dissolve the Zone and terminate its existence at any time. If the Zone is dissolved and terminated or is otherwise unable to expend the tax proceeds received pursuant to G.S. 158-42, the Commission shall liquidate the assets of the Zone to the extent possible and distribute all Zone assets to the counties of the Zone in proportion to the amount of tax collected in each county. The assets of the Zone that exceed the amount of tax collected by the counties and are attributable to an appropriation made to the Zone by the General Assembly shall revert to the General Fund and may not be distributed to the counties. A county may use funds distributed to it pursuant to this subsection only for economic development projects and infrastructure construction projects. In calculating the amount to be refunded to each county, the Zone shall first allocate amounts loaned and not yet repaid as follows:

(1) Amounts loaned for a project in a county will be allocated to that county to the extent of its beneficial ownership of the principal of the trust account created under G.S. 158-42 and the county will become the owner of the right to repayment of the amount loaned to the extent of its beneficial ownership of the principal of the trust account created under G.S. 158-42.

(2) Amounts not allocated pursuant to subdivision (1) shall be allocated among the remaining counties in proportion to the amount of tax collected in each county under G.S. 158-42, and the remaining counties shall become the owners of the right to repayment of the amounts loaned in proportion to

the amount of tax collected in each county under G.S. 158-42.

Notes and other instruments representing the right to repayment shall, upon dissolution of the Zone, be held and collected by the State Treasurer, who shall disburse the collections to the counties as provided in this subsection.

The Commission shall distribute those assets that it is unable to liquidate among the Zone counties insofar as practical on an equitable basis, as determined by the Commission. Upon termination, the State of North Carolina shall succeed to any remaining rights, obligations, and liabilities of the Zone not assigned to the Zone counties.

"§ *158-42. Temporary Zone vehicle registration tax.*

(a) Levy. -- The Commission may, by resolution, after not less than 10 days' public notice and a public hearing, levy an annual registration tax of five dollars ($5.00) on motor vehicles with a tax situs within the Zone. A tax levied under this section is in addition to any other motor vehicle license or registration tax.

The tax applies to vehicles required to pay a tax under G.S. 20-88 and G.S. 20-87(1), (2), (4), (5), (6), and (7). The tax situs of a motor vehicle for the purpose of this section is its ad valorem tax situs. If the vehicle is not subject to ad valorem tax, its tax situs for the purpose of this section is the ad valorem tax situs it would have if it were subject to ad valorem tax.

(b) Effective Date; Expiration. -- The effective date of a tax levied under this section shall be no earlier than July 1, 1994. The effective date of a tax levied under this section must be the first day of a calendar month set by the Commission in the resolution levying the tax, and shall be no earlier than the first day of the third calendar month after the adoption of the resolution.

The authority of the Zone to levy a tax under this section expires five years after the effective date of the first tax levied under this section. A tax levied under this section expires when the Zone's authority to levy the tax expires. The expiration of the tax does not affect the rights or liabilities of the Zone, a taxpayer, or another person arising under this section before the expiration of the tax; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under this section before the expiration of the tax.

(c) Repeal of Tax. -- The Commission may, by resolution, repeal a tax levied under this section. The effective date of the repeal must be the first day of a calendar month set by the Commission in the resolution repealing the tax, and shall be no earlier than the first day of the third calendar month after the adoption of the resolution. Repeal of the tax does not affect the date the Zone's authority to levy

the tax expires under subsection (b) of this section. Repeal of the tax does not affect the rights or liabilities of the Zone, a taxpayer, or another person arising under this section before the effective date of the repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under this section before the effective date of the repeal.

(d) Administration. -- The Division of Motor Vehicles of the Department of Transportation shall collect and administer a tax levied under this section. Immediately after adopting a resolution levying or repealing a tax under this section, the Commission shall deliver a certified copy of the resolution to the Division of Motor Vehicles. The tax is due at the same time and subject to the same restrictions as the tax levied in G.S. 20-87 and G.S. 20-88. The tax shall be prorated in accordance with G.S. 20-66 and G.S. 20-95, as applicable. The Commissioner of Motor Vehicles may adopt rules necessary to administer the tax.

(e) Distribution of Tax Proceeds. -- The Commissioner of Motor Vehicles shall credit the proceeds of the tax levied under this section to a special account and distribute the net proceeds on a quarterly basis to the Zone. Interest on the special account shall be credited quarterly to the Highway Fund to reimburse the Division of Motor Vehicles for the cost of collecting and administering the tax. The Commissioner of Motor Vehicles shall provide the Zone with an accounting of the percentage of proceeds collected in each county of the Zone in each quarter.

(f) Use of Tax Proceeds. -- The Zone may use the proceeds of the tax levied under this section only for economic development projects and infrastructure construction projects that are within the territorial jurisdiction of the Zone but not within the Global TransPark Complex. The Zone shall use the tax proceeds only for public purposes authorized by this Article.

The Zone shall place fifteen percent (15%) of the tax proceeds distributed to it under this section in a general funds account and the remaining eighty-five percent (85%) in an interest-bearing trust account. Each county shall be the beneficial owner of a share of the principal of the trust account in proportion to the amount of tax proceeds collected in that county.

The Zone may not disburse the principal of the trust account except pursuant to a contract that provides that, within a reasonable time not to exceed 20 years, the Zone will recover or be repaid the amount disbursed. The Zone may, in its discretion, set reasonable terms and conditions for the repayment of the principal disbursed, including provisions for securing the debt and the payment of interest."

Sec. 2. Section 1.2 of Chapter 749 of the 1991 Session Laws is repealed.

Sec. 3. This act is effective upon ratification. The creation of the Global TransPark Development Zone in accordance with G.S. 158-33, as enacted by this act, is valid only if the resolutions required by G.S. 158-33(a) are adopted after the effective date of this act.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 710 **CHAPTER 545**

AN ACT TO MODIFY THE NASH COUNTY ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1(b) of Chapter 32 of the 1987 Session Laws reads as rewritten:

"(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this act may deduct from the amount remitted to the county a discount ~~of three percent (3%) of the amount collected.~~ equal to the discount the State allows the operator for collecting State sales and use taxes."

Sec. 2. Section 1(d) of Chapter 32 of the 1987 Session Laws reads as rewritten:

"(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act ~~shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of thirty (30) days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade the occupancy tax levied under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The Board of Commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~ is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Board of Commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes."

Sec. 3. Section 1(e) of Chapter 32 of the 1987 Session Laws reads as rewritten:

"(e) Distribution and use of tax revenue. Nash County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Nash Tourism Development Authority. The Authority ~~may~~ shall spend at least two-thirds of the funds remitted to it under this subsection only to promote travel and tourism in Nash County, ~~to sponsor tourist-oriented events and activities in Nash County, and to finance tourist-related capital projects in Nash County, such as the construction of a civic center and utilities within Nash County. As used in this subsection, 'net proceeds' means gross~~ and shall spend the remainder on tourism-related expenditures. The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance ~~officer~~, officer, not to exceed seven percent (7%) of the amount collected.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that are designed to increase the use of lodging facilities in a county or to attract tourists or business travelers to the county and expenditures incurred by the county in collecting the tax. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the Authority, will facilitate and support tourism."

Sec. 4. Section 2(a) of Chapter 32 of the 1987 Session Laws reads as rewritten:

"(a) Appointment and membership. When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the ~~Authority including the members' qualifications and terms of office,~~ Authority, the terms of office of the members, and ~~for~~ the filling of vacancies on the Authority. The members of the Authority shall be citizens of Nash County. If the authority has an even number of members, then at least one-half of the members shall have experience in the promotion of travel and tourism. If the Authority has an odd number of members, then at least one less than one-half of the members shall have experience in the promotion of travel and tourism. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair or upon a written request signed by at least one-third of its members and shall adopt rules of procedure to govern its meetings. The Finance Officer for Nash County shall be the ex officio finance officer of the Authority."

Sec. 5. The Nash Tourism Development Authority has the sole power to determine if an expenditure of occupancy tax proceeds collected before August 1, 1993, is for a purpose stated in subsection 1(e) of Chapter 32 of the 1987 Session Laws.

Sec. 6. Section 5 of this act is effective upon ratification. The remaining sections of this act become effective August 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 887 **CHAPTER 546**

AN ACT TO ALLOW THE TOWN OF SANTEETLAH TO MAKE EQUAL ASSESSMENTS FOR EACH LOT IN A NEW SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-218 reads as rewritten:

"§ *160A-218. Basis for making assessments.*

Assessments may be made on the basis of:

(1) The frontage abutting on the project, at an equal rate per foot of frontage, or

(2) The area of land served, or subject to being served, by the project, at an equal rate per unit of area, or

(3) The value added to the land served by the project, or subject to being served by it, being the difference between the appraised value of the land without improvements as shown on the tax records of the county, and the appraised value of the land with improvements according to the appraisal standards and rules adopted by the county at its last revaluation, at an equal rate per dollar of value added; or

(4) The number of lots served, or subject to being served, ~~where the project involves extension of an existing system to a residential or commercial subdivision,~~ at an equal rate per lot; or

(5) A combination of two or more of these bases.

Whenever the basis selected for assessment is either area or value added, the council may provide for the laying out of benefit zones according to the distance of benefited property from the project being undertaken, and may establish differing rates of assessment to apply uniformly throughout each benefit zone.

For each project, the council shall endeavor to establish an assessment method from among the bases set out in this section which will most accurately assess each lot or parcel of land according to the benefit conferred upon it by the project. The council's decision as to the method of assessment shall be final and conclusive and not subject to further review or challenge."

Sec. 2. This act applies to the Town of Santeetlah only, and only applies to assessments under G.S. 160A-216(3).

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 1148 **CHAPTER 547**

AN ACT TO AFFECT THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-40.4 reads as rewritten:

"§ *135-40.4. Benefits in general.*

(a) In the event a covered person, as a result of accidental bodily injury, disease or pregnancy, incurs covered expenses, the Plan will pay benefits up to the amounts described in G.S. 135-40.5 through G.S. 135-40.9.

The Plan is divided into two parts. The first part includes certain benefits which are not subject to a deductible or coinsurance. The second part is a comprehensive plan and includes those benefits which are subject to both a two hundred fifty dollars ($250.00) deductible for each covered individual to an aggregate maximum of seven hundred fifty dollars ($750.00) per family and coinsurance of 80%/20%. There is a limit on out-of-pocket expenses under the second part.

Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan may ~~begin the process of negotiating prospective rates of charges that are to be allowed under the Plan with preferred providers of institutional and professional medical care and services.~~ contract with providers of institutional and professional medical care and services to established preferred provider networks. The design, adoption, and implementation of such preferred provider contracts and networks are not subject to the requirements of Chapter 143 of the General Statutes, provided that for any hospital preferred provider network all hospitals will have an opportunity to contract with the Plan if they meet the contract requirements. The Executive Administrator and Board of Trustees shall, under the provisions of G.S. 135-39.5(12), pursue such preferred provider contracts on a timely basis and shall make ~~monthly~~ reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits on its progress in negotiating such ~~prospective rates for allowable charges.~~ preferred provider contracts. The Executive Administrator and Board of Trustees shall implement a refined diagnostic-related grouping or diagnostic-related grouping-based reimbursement system for hospitals as soon as practicable, but no later than January 1, 1995.

(b) As used in this section the term 'preferred provider contracts or networks' includes, but is not limited to, a refined diagnostic-related grouping or diagnostic-related grouping-based system of reimbursement for hospitals."

Sec. 2. This act becomes effective July 1, 1993, and shall not apply to any litigation or administrative proceedings pending prior to that date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 83 **CHAPTER 548**

AN ACT TO TEMPORARILY INCREASE THE SCRAP TIRE DISPOSAL TAX, TO PROVIDE FOR THE DISTRIBUTION OF THE ADDITIONAL TAX PROCEEDS, TO TEMPORARILY REVOKE THE GENERAL AUTHORITY OF A UNIT OF LOCAL GOVERNMENT OR A CONTRACTING PARTY TO IMPOSE A SEPARATE SCRAP TIRE DISPOSAL FEE, AND TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES TO DEVELOP AND IMPLEMENT ALTERNATIVE, MARKET-BASED PILOT PROGRAMS FOR SCRAP TIRE COLLECTION AND RECYCLING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-187.16 reads as rewritten:

"§ *105-187.16. Tax imposed.*

(a) Levy. -- A privilege tax is imposed on a tire retailer at ~~the~~ a percentage rate ~~of one percent (1%)~~ of the sales price of each new tire sold at retail by the retailer. A privilege tax is imposed on a tire retailer and on a tire wholesale merchant at ~~the~~ a percentage rate of ~~one percent (1%) of~~ the sales price of each new tire sold by the retailer or wholesale merchant to a wholesale merchant or retailer for placement on a vehicle offered for sale, lease, or rental by the retailer or wholesale merchant. An excise tax is imposed on a new tire purchased for storage, use, or consumption in this State or for placement in this State on a vehicle offered for sale, lease, or rental. This excise tax is ~~at the~~ a percentage rate ~~of one percent (1%)~~ of the cost price of the tire. These taxes are in addition to all other taxes.

(b) Rate. -- The percentage rate of the taxes imposed by subsection (a) of this section is set by the following table; the rate is based on the bead diameter of the new tire sold or purchased:

Bead Diameter of Tire	Percentage Rate
Less than 20 inches	2%
At least 20 inches	1%."

Sec. 2. G.S. 105-187.19 reads as rewritten:

"§ *105-187.19. Use of tax proceeds.*

(a) The Secretary shall distribute the taxes collected under this Article, less the ~~cost of collecting the taxes,~~ allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary ~~shall~~ may retain the cost of ~~collection~~ collection by the Department, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the ~~Department of Revenue.~~ Department.

(b) Each quarter, the Secretary shall credit ~~ten percent (10%)~~ five percent (5%) of the net tax proceeds to the Solid Waste Management

Trust Fund and shall credit twenty-seven percent (27%) of the net tax proceeds to the Scrap Tire Disposal Account. The Secretary shall distribute ~~ninety percent (90%)~~ the remaining sixty-eight percent (68%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the ~~Office of State Budget and Management. A~~ State Planning Officer.

(c) A county may use funds distributed to it under this section only as provided in G.S. 130A-309.54. A county that receives funds under this section and that has an agreement with another unit of local government under which the other unit of local government provides for the disposal of solid waste for the county shall transfer the amount received under this section to the other unit of local government. A unit of local government to which funds are transferred is subject to the same restrictions on use of the funds as the county."

Sec. 3. G.S. 130A-309.12(b) reads as rewritten:

"(b) The Solid Waste Management Trust Fund shall consist of:

(1) Funds appropriated by the General ~~Assembly;~~ Assembly.

(2) Contributions and grants from public or private ~~sources; and~~ sources.

(3) ~~Ten percent (10%)~~ Five percent (5%) of the proceeds of the scrap tire disposal tax imposed under Article 5B of Chapter 105 of the General Statutes."

Sec. 4. G.S. 130A-309.58(e) reads as rewritten:

"(e) A county shall provide, directly or by contract with another unit of local government or private entity, at least one site for scrap tire disposal for that county. The unit of local government or contracting party may not charge a disposal fee for the disposal of scrap ~~tires only to the extent that the cost per tire of disposal exceeds the amount received by the county under G.S. 105-187.19 during the preceding 12-month period, divided by the number of tires disposed of within the county according to the tire disposal procedures during that period. The unit of local government or contracting party may charge a disposal fee for the disposal of scrap tires regardless of whether a tax has been paid on the tire under Article 5B of Chapter 105 and regardless of the tire's place of origin.~~ tires except as provided in this subsection. A unit of local government or contracting party may charge a disposal fee that does not exceed the cost of disposing of the scrap tires only if:

(1) The scrap tires are new tires that are being disposed of by their manufacturer because they do not meet the manufacturer's standards for salable tires; or

(2) The scrap tires are delivered to a local government scrap tire disposal site without an accompanying certificate required by

G.S. 130A-309.58(f) that indicates that the tires originated in a county within North Carolina."

Sec. 5. G.S. 130A-309.61 reads as rewritten:

"§ *130A-309.61. ~~Preemption.~~ Effect on local ordinances.*

This Part preempts any local ordinance regarding the disposal of scrap tires to the extent ~~that any~~ the local ordinance is inconsistent with this Part or the rules adopted pursuant to this Part. ~~A unit of local government may not charge any fees for the disposal of scrap tires except as authorized by this Part.~~"

Sec. 6. Part 2B of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ *130A-309.63. Scrap Tire Disposal Account.*

(a) Creation. -- The Scrap Tire Disposal Account is established as a nonreverting account within the Department. The Account consists of revenue credited to the Account from the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes.

(b) Use. -- The Department may use revenue in the Account only as authorized by this section. The Department may use up to twenty-five percent (25%) of the revenue in the Account to make grants to units of local government to assist them in disposing of scrap tires. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit of local government to provide for scrap tire disposal, the severity of a unit of local government's scrap tire disposal problem, and the effort made by a unit of local government to provide for scrap tire disposal within the resources available to it.

(c) Eligibility. -- A unit of local government is not eligible for a grant unless its costs for disposing of scrap tires for the six-month period preceding the date the unit of local government files an application for a grant exceeded the amount the unit of local government received during that period from the proceeds of the scrap tire tax under G.S. 105-187.19. A grant to a unit of local government may not exceed the unit of local government's unreimbursed cost for the six-month period.

(d) Cleanup of Nuisance Tire Sites. -- The Department may use the remaining revenue in the Account only to clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds in the Account to clean up a nuisance tire collection site only if no other funds are available for that purpose.

(e) Reports. -- The Department shall make quarterly reports on the Scrap Tire Disposal Account to the Environmental Review

Commission. The report shall show the beginning and ending balances in the Account for the reporting period, the amount credited to the Account during the quarter, and the amount of revenue used for grants and to clean up nuisance tire collection sites. A quarterly report shall be filed within 60 days after the end of a calendar quarter."

Sec. 7. Of the revenue credited to the Scrap Tire Disposal Account created by this act, the Department of Environment, Health, and Natural Resources may use up to five hundred thousand dollars ($500,000) to develop and implement pilot programs to demonstrate alternative, market-based approaches to scrap tire collection and recycling in North Carolina. A grant to any one private company shall not exceed one hundred thousand dollars ($100,000). In developing and implementing these pilot programs, the Department may contract with private companies that have expertise in the collection and recycling of scrap tires. The Department shall report the results of the pilot programs, along with any recommendations regarding the implementation of a market-based scrap tire collection and recycling program on a statewide basis, to the Environmental Review Commission by 1 January 1995.

Sec. 8. G.S. 105-187.19 reads as rewritten:

"§ *105-187.19. Use of tax proceeds.*

(a) The Secretary shall distribute the taxes collected under this Article, less the ~~cost of collecting the taxes,~~ allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary ~~shall~~ may retain the cost of ~~collection~~ collection by the Department, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the ~~Department of Revenue.~~ Department.

(b) Each quarter, the Secretary shall credit ten percent (10%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall distribute ninety percent (90%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the ~~Office of State Budget and Management. A~~ State Planning Officer.

(c) A county may use funds distributed to it under this section only as provided in G.S. 130A-309.54. A county that receives funds under this section and that has an agreement with another unit of local government under which the other unit of local government provides for the disposal of solid waste for the county shall transfer the amount received under this section to the other unit of local government. A unit of local government to which funds are transferred is subject to the same restrictions on use of the funds as the county."

Sec. 9. Section 4 of this act becomes effective January 1, 1994. Section 8 of this act becomes effective June 30, 1997. All other sections of this act become effective October 1, 1993. Sections 1 through 6 of this act expire June 30, 1997. Section 7 of this act expires June 30, 1995. Any funds remaining in the Scrap Tire Disposal Account created by this act on June 30, 1997, shall be transferred to the Solid Waste Management Trust Fund. The expiration of the additional tax imposed by Section 1 of this act does not affect the rights or liabilities of the State, a taxpayer, or another person that arise during the time the additional tax is in effect. The first quarterly report required by G.S. 130A-309.63(e), as enacted by this act, is due within 60 days after the quarter that ends on December 31, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 114 **CHAPTER 549**

AN ACT TO AUTHORIZE LINCOLN COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX, TO SET THE MAXIMUM COMBINED CITY AND COUNTY ROOM OCCUPANCY TAX RATE FOR LINCOLN COUNTY AND THE CITIES AND TOWNS LOCATED IN LINCOLN COUNTY, AND TO MAKE OTHER LOCAL CHANGES FOR DUPLIN COUNTY AND THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. Occupancy tax.

(a) *Authorization and Scope.*

The Lincoln County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The combined occupancy tax rates for Lincoln County and any city or town that is located in Lincoln County and is authorized to levy a room occupancy tax may not exceed six percent (6%).

(b) *Collection.*

Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) *Administration.*

The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) *Penalties.*

A person, firm, corporation, or association who fails or refuses to file the return required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The board of commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(e) *Use of Tax Revenue.*

Lincoln County shall use at least two-thirds of the proceeds of the tax revenue to promote travel and tourism and shall use the remaining tax proceeds for tourism-related expenditures. The term "promote travel and tourism" means to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county; the term includes administrative expenses incurred in engaging in the listed activities. The term "tourism-related expenditures" means expenditures that are designed to increase the use of lodging facilities in the county or to

attract tourists or business travelers to the county and expenditures by the county to administer and collect the tax; it includes expenditures for the construction or maintenance of a convention or meeting facility to be used primarily by individuals who are not residents of the county and for the construction or maintenance of a coliseum or visitors' center, but does not include other capital expenditures.

(f) *Effective Date of Levy.*

A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) *Repeal.*

A tax levied under this section may be repealed by a resolution adopted by the Lincoln County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 2. Chapter 1001 of the 1991 Session Laws is amended by adding a new section to read:

"Sec. 3.1. Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, local boards of education are authorized to enter into contracts for the erection or repair of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative units are located. This section applies only to Duplin County and to local boards of education for school administrative units in or for Duplin County."

Sec. 3. A town may adopt ordinances applicable in the town and the town's extraterritorial planning jurisdiction to require that developers make payment to the town in lieu of reserving or dedicating recreation areas, where the town's planning and development regulations would otherwise require provision of recreation areas equaling two acres or less. The amount of payment shall be determined through procedures to be established by ordinance and in a manner consistent with G.S. 160A-372. This section applies only to the Town of Chapel Hill.

Sec. 4. Section 1 of this act applies only to Lincoln County. Section 2 of this act applies only to Duplin County and to local boards of education for school administrative units in or for Duplin County. Section 3 of this act applies only to the Town of Chapel Hill.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 235 **CHAPTER 550**

AN ACT TO APPROPRIATE THE BALANCE OF THE FUNDS FROM THE PROCEEDS OF THE TWO HUNDRED MILLION DOLLARS IN GENERAL OBLIGATION BONDS AUTHORIZED FOR THE CONSTRUCTION OF STATE PRISON AND YOUTH SERVICES FACILITIES, AND TO PROVIDE FOR THE USE OF INMATES IN PRISON CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. *General Purposes.* The appropriations hereby made by the 1993 General Assembly for capital improvements from the proceeds of the two hundred million dollar ($200,000,000) State of North Carolina Prison and Youth Services Facilities Bonds authorized by Chapter 935 of the 1989 Session Laws (the "Bond Act") and approved by the qualified voters of the State who voted thereon on November 6, 1990, as said bonds may be issued from time to time (the "bonds"), are for the purposes of financing the cost of eighty-seven million five hundred thousand dollars ($87,500,000) of State prison facilities and youth services facilities, including, without limitation, the cost of constructing capital facilities, renovating or reconstructing existing facilities, acquiring equipment related thereto, purchasing land, paying costs of issuance of bonds and notes, and paying contractual services necessary for the partial implementation of the purposes of the Bond Act, all as defined in and authorized by the Bond Act and as more particularly described in this act.

Sec. 2. *Appropriation Procedures.* The appropriations hereby made by the 1993 General Assembly for the purposes under the Bond Act shall be disbursed for the particular projects authorized by this act. Expenditure of funds shall not be made by any State department, institution, or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

Where direct capital improvement appropriations include furnishing fixed and movable equipment for any project, funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by this act shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the appropriations provided, except as otherwise provided in this act.

Sec. 3. *Descriptions, Custodial Levels, Beds, Projected Allocations.* Appropriations are made from bond proceeds for use by the Department of Correction to provide for capital improvement projects as herein provided.

The proceeds of bonds and notes shall be expended for paying the cost, as defined in the Bond Act, of prison facilities, to the extent and as provided in this act and subject to change as herein provided, for the following projects:

Project Description	Custodial Level	Additional Beds/Standard Operating Capacity
NEW FACILITIES		
Eastern Processing Center at Vanceboro - Planning and Design	Medium	-
Hyde Correctional Center	Medium	520
Polk Replacement	Medium	228
East Work Facility	Minimum	500
West Work Facility	Minimum	500
Boot Camp - West	Minimum	90
FACILITY EXPANSIONS		
Franklin	Medium	104
Harnett	Medium	104
Johnston	Medium	104
Lumberton	Medium	104
Morrison	Medium	208
NCCIW	Medium	50
Bladen	Minimum	100
Caldwell	Minimum	50
Carteret	Minimum	100
Cherry	Minimum	100
Davidson	Minimum	50
Fountain	Minimum	100
Greene	Minimum	50
Pasquotank	Minimum	200
Robeson	Minimum	50
Rowan	Minimum	50
Rutherford	Minimum	50
Sanford	Minimum	50

Umstead	Minimum	100
Wake	Minimum	100
Wilkes	Minimum	50
		3,712
Subtotal		$85,059,948
Contingencies		2,440,052
TOTAL		$87,500,000

Sec. 4. *Increases in Allocations for Projects.* Allocations made for projects may be increased to reflect the availability of other funds, including, without limitation, contingency funds, income earned on the investment of bond and note proceeds, and the proceeds of any grants.

Sec. 5. *Contingency Funds.* The amount allocated for contingencies set forth above shall be placed by the State Treasurer in a special account in the State Prison and Youth Services Facilities Bond Fund to be designated the "State Prison and Youth Services Facilities Contingency Account". The funds in the State Prison and Youth Services Facilities Contingency Account shall be disbursed in accordance with the procedures herein established for disbursements from the State Prison and Youth Services Facilities Bond Fund. The funds in the State Prison and Youth Services Facilities Contingency Account shall be expended for paying the cost of projects, including, without limitation, the costs of issuance of bonds and notes, increased project costs resulting from construction costs exceeding projected costs, inflationary factors, and changes in projects and allocations.

Any balance in the State Prison and Youth Services Facilities Contingency Account may be used for particular prison construction or renovation projects as the Governor as Director of the Budget may direct.

Sec. 6. *Administration.* With respect to facilities authorized for the Department of Correction, the Office of State Construction of the Department of Administration may contract for and supervise all aspects of administration, technical assistance, design, construction, or demolition of prison facilities in order to implement the providing of prison facilities under the provisions of this act.

The facilities authorized under this act shall be constructed in accordance with the provisions of general law applicable to the construction of State facilities. If the Secretary of Administration, after consultation with the Secretary of Correction, finds that the delivery of prison facilities must be expedited for good cause, the Office of State Construction of the Department of Administration may use alternative delivery systems and shall be exempt from the following statutes and rules implementing those statutes, to the extent

necessary to expedite delivery: G.S. 143-135.26(1), 143-128, 143-129, 143-131, 143-132, 143-134, 143-135.26, 113A-1 through 113A-10, 113A-50 through 113A-66, 133-1.1(g), and 143-408.1.

Prior to exercising the exemptions allowable under this section, the Secretary of Administration shall give reasonable notice in writing of the Department's intent to exercise the exemptions to the Speaker of the House, the President Pro Tempore of the Senate, the Chairs of the House and Senate Appropriations Committees, the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division. The written notice shall contain at least the following information: (i) the specific statutory requirement or requirements from which the Department intends to exempt itself; (ii) the reason the exemption is necessary to expedite delivery of prison facilities; (iii) the way in which the Department anticipates the exemption will expedite the delivery of prison facilities; and (iv) a brief summary of the proposed contract for the project which is to be exempted.

The Office of State Construction of the Department of Administration shall have a verifiable ten percent (10%) goal for participation by minority and women-owned businesses. All contracts for the design, construction, or demolition of prison facilities shall include a penalty for failure to complete the work by a specified date.

The Office of State Construction of the Department of Administration shall consider alternative delivery systems that could expedite the delivery of prison facilities. Such delivery systems as design-build, using modular or conventional building systems, shall be considered. However, in order for such alternatives to be used, the Department of Correction must approve the proposed design for operational programming and cost of operations and maintenance.

The Office of State Construction of the Department of Administration shall involve the Department of Correction in all aspects of the projects to the extent that such involvement relates to the Department's program needs and to its responsibility for the care of the prison population.

Sec. 7. *Changes.* To the extent that funds are not required to be expended for the specific projects described in this act, appropriations authorized herein may be used to complete project elements which could not be funded with the appropriations made in Section 239 of Chapter 689 of the 1991 Session Laws. Funds may also be used to construct, reconstruct, or renovate prison industrial and forestry enterprises facilities, as mentioned in G.S. 148-2, at prison facilities statewide, as replacement projects, and to make necessary prison facility repairs and renovations but no such funds may be used for operating expenditures. Prior to taking any action

under this section, the Governor may consult with the Advisory Budget Commission.

Sec. 8. *Quarterly Reports.* The Office of State Construction of the Department of Administration shall provide quarterly reports to the Chairs of the Appropriations Committee and the Base Budget Committee in the Senate, the Chairs of the Appropriations Committee in the House, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division as to any changes in projects and allocations made under this act. The report shall include any changes in the projects and allocations made pursuant to this act, information on which contractors have been selected, what contracts have been entered into, the projected and actual occupancy dates of facilities contracted for, the number of beds to be constructed on each project, the location of each project, and the projected and actual cost of each project.

The Department of Insurance and the Department of Correction shall report quarterly to the Joint Legislative Commission on Governmental Operations on their involvement in the prison construction program.

Sec. 9. *Unexpended Funds.* To the extent that funds remain unexpended, they shall be subject to further reallocation or reappropriation by the General Assembly for purposes permitted by the Bond Act.

Sec. 10. Sections 1 through 4 of Chapter 1036 of the 1991 Session Laws are repealed.

Sec. 11. (a) The State may require contractors awarded bids for construction of facilities funded by the remaining eighty-seven million five hundred thousand dollars ($87,500,000) of the two hundred million dollars ($200,000,000) in bond proceeds, authorized by Chapter 935 of the 1989 Session Laws and appropriated in this act, to use a work force that includes inmates provided to the contractors by the Department of Correction; the requirement may provide that such inmates may compose up to twenty percent (20%) of the contractor's work force. The Office of State Construction and the Department of Correction shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division on the use of inmates by private contractors.

(b) The Department of Correction shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division on the inmate

construction program used to construct the East Work Facility and the West Work Facility.

Sec. 12. If additional funds are needed beyond the six million six hundred thirty thousand eight hundred sixty-six dollars ($6,630,866) authorized and allocated from the one hundred twelve million five hundred thousand dollars ($112,500,000) in bond proceeds by Section 239 of Chapter 689 of the 1991 Session Laws, as amended by Section 41(a) of Chapter 1044 of the 1991 Session Laws, for projects at the North Carolina Correctional Institution for Women, those projects, with the exception of the demolition of dormitories A, B, and C, shall be completed with funds from the five million dollars ($5,000,000) authorized for use by the Department of Correction for repair and renovation in the Current Operations Appropriations Act of 1993. The projects include a 48-bed special housing facility, an operations center, and a gatehouse. In no case shall any funds allocated for these projects at the North Carolina Correctional Institution for Women be allocated or used for any other project.

Sec. 13. The General Assembly shall fund the construction of Eastern Processing Center at Vanceboro and the 192-bed, close custody addition to Marion Correctional Institution as top priority items during the 1994 Regular Session of the 1993 General Assembly.

Sec. 14. This act becomes effective July 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 505 **CHAPTER 551**

AN ACT REQUESTED BY THE NORTH CAROLINA COUNCIL FOR THE DEAF AND HARD OF HEARING TO RECONSTITUTE THE MEMBERSHIP OF THE NORTH CAROLINA COUNCIL FOR THE DEAF AND HARD OF HEARING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-216.32(a) reads as rewritten:

"(a) The Council for the Deaf and the Hard of Hearing shall consist of ~~15~~ 23 members. Fifteen members shall be appointed by the Governor. Three members appointed by the Governor shall be persons who are deaf and three members shall be persons who are hard of hearing. One appointment shall be an educator who trains deaf education teachers and one appointment shall be an audiologist licensed under Article 22 of Chapter 90 of the General Statutes. Three appointments shall be parents of deaf or hard of hearing children including one parent of a student in a residential school; one

parent of a student in a preschool ~~satellite~~ program; and one parent of a student in a mainstream education program, with each parent coming from a different region of the three North Carolina schools for the deaf regions. One member appointed by the Governor shall be recommended by the President of the North Carolina Association of the Deaf; one member shall be recommended by the President of the North Carolina Pediatric Society; one member shall be recommended by the President of the North Carolina Registry of Interpreters for the Deaf; and one member shall be nominated by the Superintendent of Public Instruction. One member shall be appointed from the House of Representatives by the Speaker of the House of Representatives and one member shall be appointed from the Senate by the President Pro Tempore of the Senate. The Secretary of Human Resources shall appoint six members as follows: one from the Division of Vocational Rehabilitation, one from the Division of Aging, one from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, one from the Division of Social Services, one from a North Carolina Chapter of SHHH (Self Help for the Hard of Hearing), and one from SPEAK (Statewide Parents' Education and Advocacy for Kids)."

Sec. 2. This act becomes effective July 1, 1993, and applies to appointments made on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 539 **CHAPTER 552**

AN ACT TO AMEND THE NORTH CAROLINA BUSINESS CORPORATION ACT AND TO AMEND G.S. 54-139 RELATING TO FOREIGN COOPERATIVE CORPORATIONS AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION AND TO MAKE OTHER AMENDMENTS TO THE BUSINESS CORPORATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55-1-23(c) reads as rewritten:

"(c) ~~The~~ Except as provided in G.S. 55-2-03(b), the fact that a document has become effective under this section does not determine its validity or invalidity or the correctness or incorrectness of the information contained in the document."

Sec. 2. G.S. 55-1-25 reads as rewritten:

"*§ 55-1-25. Filing duty of Secretary of State.*

(a) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of this Chapter, the Secretary of State shall file it.

(b) The Secretary of State files a document by stamping or otherwise endorsing 'Filed', together with his name and official title and the date and time of filing, on both the original and the document copy. After filing a document, except as provided in G.S. 55-5-03 and G.S. 55-15-09, the Secretary of State shall deliver the document copy to the domestic or foreign corporation or its representative.

(c) If the Secretary of State refuses to file a document, he shall return ~~it~~ it, by personal delivery or by first-class mail postage prepaid, to the domestic or foreign corporation or its representative within five days after the document was received, together with a brief, written ~~explanation of~~ statement of the date and the reason for his refusal.

(d) The Secretary of State's duty is to review and file documents that satisfy the requirements of this Chapter. His filing or refusing to file a document does not:

(1) ~~Affect~~ Except as provided in G.S. 55-2-03(b), affect the validity or invalidity of the document in whole or part;

(2) Relate to the correctness or incorrectness of information contained in the document;

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect."

Sec. 3. G.S. 55-1-32 reads as rewritten:

"*§ 55-1-32. Penalties imposed upon corporations, officers, and directors for failure to answer interrogatories.*

(a) ~~If a corporation, domestic or foreign, fails or refuses~~ The knowing failure or refusal of a domestic or foreign corporation to answer truthfully and fully within the time prescribed in this Chapter interrogatories propounded by the Secretary of State in accordance with the provisions of this ~~Chapter, the Secretary of State may suspend its articles of incorporation or its certificate of authority to do business.~~ Chapter shall constitute grounds for administrative dissolution under G.S. 55-14-20 or for revocation under G.S. 55-15-30, as the case may be.

(b) Each officer and director of a domestic or foreign ~~corporation, domestic or foreign,~~ corporation who knowingly fails or refuses within the time prescribed by this Chapter to answer truthfully and fully interrogatories propounded to him by the Secretary of State in accordance with the provisions of this Chapter shall be guilty of a misdemeanor."

Sec. 4. G.S. 55-1-40(4) reads as rewritten:

"(4) 'Corporation' or 'domestic corporation' means a corporation for profit or a corporation having capital stock that is incorporated under or subject to the provisions of this Chapter and that is not a foreign corporation except that in G.S. 55-9-01 and G.S. 55-15-21 'corporation' includes domestic and foreign corporations."

Sec. 5. G.S. 55-1-41 reads as rewritten:

"*§ 55-1-41. Notice.*

(a) Notice under this Chapter shall be in writing unless oral notice is authorized in the corporation's articles of incorporation or ~~bylaws~~ bylaws and written notice is not specifically required by this Chapter.

(b) Notice may be communicated in person; by telephone, telegraph, teletype, or other form of wire or wireless communication, or by facsimile transmission; or by mail or private carrier. If these forms of personal notice are impracticable as to one or more persons, notice may be communicated to such persons by publishing notice in a newspaper in the county wherein the corporation has its principal place of business in the State, or if it has no principal place of business in the State, the county wherein it has its registered office; or by radio, television, or other form of public broadcast communication.

(c) Written notice by a domestic or foreign corporation to its shareholder is effective when deposited in the United States mail with postage thereon prepaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders.

(d) Written notice to a domestic or foreign corporation (authorized to transact business in this State) may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report on file in the office of the Secretary of State or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(e) Except as provided in subsection (c), written notice is effective at the earliest of the following:

(1) When received;

(2) Five days after its deposit in the United States mail, as evidenced by the ~~postmark~~ postmark or otherwise, if mailed with at least first-class postage thereon prepaid and correctly addressed;

(3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(f) Oral notice is effective when actually communicated to the person entitled thereto.

(g) If this Chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this Chapter, those requirements govern."

Sec. 6. G.S. 55-2-02(b) reads as rewritten:

"(b) The articles of incorporation may set forth any provision that under this Chapter is required or permitted to be set forth in the bylaws, and may also set forth:

(1) The names and addresses of the individuals who are to serve as the initial directors;

(2) Provisions not inconsistent with law regarding (i) the purpose or purposes for which the corporation is organized; (ii) managing the business and regulating the affairs of the corporation; (iii) defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders; (iv) a par value for authorized shares or classes of shares; (v) the imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions; (vi) any limitation on the duration of the corporation; and

(3) A provision limiting or eliminating the personal liability of ~~each~~ any director arising out of an action whether by or in the right of the corporation or otherwise for monetary damages for breach of any duty as a director. No such provision shall be effective with respect to (i) acts or omissions that the director at the time of such breach knew or believed were clearly in conflict with the best interests of the corporation, (ii) any liability under G.S. 55-8-33, (iii) any transaction from which the director derived an improper personal benefit, or (iv) acts or omissions occurring prior to the date the provisions became effective. As used herein, the term 'improper personal benefit' does not include a director's reasonable compensation or other reasonable incidental benefit for or on account of his service as a director, officer, employee, independent contractor, attorney, or consultant of the corporation. A provision permitted by this Chapter in the articles of incorporation, bylaws, or a contract or resolution indemnifying or agreeing to indemnify a director against personal liability shall be fully effective whether or not there is a provision in the articles of incorporation limiting or eliminating personal liability."

Sec. 7. G.S. 55-4-04 reads as rewritten:

"*§ 55-4-04. Reserved and registered names, powers of the Secretary of State.*

The Secretary of State may revoke any reservation or registration of a corporate name if he finds, upon a hearing not less than ~~20~~ 15 days after ~~written notice has been sent~~ the effective date of written notice given by registered or certified mail, return receipt requested, to the person or corporation who made the reservation or registration, that the application ~~thereof~~ therefor or any transfer thereof was not made in good faith or that any statement contained in the application for reservation or registration was false when such application was filed or has thereafter become false."

Sec. 8. G.S. 55-6-30(d) reads as rewritten:

"(d) Notwithstanding the foregoing provision of this section, shareholders of a corporation incorporated ~~prior to July 1, 1990~~ before July 1, 1990, other than a public corporation, shall have a preemptive right to acquire the unissued shares of the corporation, to the extent provided in (and subject to the limitations of) subdivisions (b) (1)-(6) and subsection (c) of this section, except to the extent the articles of incorporation expressly provide otherwise."

Sec. 9. G.S. 55-7-20 reads as rewritten:

"*§ 55-7-20. Shareholders' list for meeting.*

(a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. The list must be arranged by voting group (and within each voting group by class or series of shares) and show the address of and number of shares held by each shareholder.

(b) The shareholders' list must be available for inspection by any shareholder, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, ~~or his agent or attorney,~~ personally or by or with his representative, is entitled on written demand to inspect and, subject to the requirements of G.S. 55-16-02(c), to copy the list, during regular business hours and at his expense, during the period it is available for inspection.

(c) The corporation shall make the shareholders' list available at the meeting, and any shareholder, ~~his agent, or attorney~~ personally or by or with his representative, is entitled to inspect the list at any time during the meeting or any adjournment.

(d) If the corporation refuses to allow a ~~shareholder, his agent, or attorney~~ shareholder or his representative to inspect the shareholders' list before or at the meeting (or copy the list as permitted by

subsection (b)), the superior court of the county where a corporation's principal office (or, if none in this State, its registered office) is located, on application of the shareholder, after notice is given to the corporation, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(e) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting."

Sec. 10. G.S. 55-8-06 reads as rewritten:

"§ 55-8-06. *Staggered terms for directors.*

If the number of directors is fixed at nine or more directors, the articles of incorporation or bylaws adopted by the shareholders may provide for staggering their terms by dividing the total number of directors into ~~two~~ two, ~~or three,~~ three, or four groups, with each group containing ~~one-half~~ one-half, ~~or one-third~~ one-third, or one-fourth of the total, as near as may be. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, ~~and~~ the terms of the third group, if any, expire at the third annual shareholders' meeting after their ~~election~~ election, and the terms of the fourth group, if any, expire at the fourth annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of ~~two~~ two, ~~years or three~~ three, ~~years~~ or four years, as the case may be, to succeed those whose terms expire."

Sec. 11. G.S. 55-8-30(d) reads as rewritten:

"(d) A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section. The duties of a director weighing a change of control situation shall not be any different, nor the standard of care any higher, than otherwise provided in this section."

Sec. 12. G.S. 55-8-50(b) reads as rewritten:

"(b) Definitions in this Part:

(1) 'Corporation' includes any domestic or foreign ~~predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.~~ corporation absorbed in a merger which, if its separate existence had continued, would have had the obligation or power to indemnify its directors, officers, employees, or agents, so that a person who would have been entitled to receive or request indemnification from such corporation if its separate

existence had continued shall stand in the same position under this Part with respect to the surviving corporation.

(2) 'Director' means an individual who is or was a director of a corporation or an individual who, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. A director is considered to be serving an employee benefit plan at the corporation's request if his duties to the corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan. 'Director' includes, unless the context requires otherwise, the estate or personal representative of a director.

(3) 'Expenses' means expenses of every kind incurred in defending a proceeding, including counsel fees.

(4) 'Liability' means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

(4a) 'Officer', 'employee', or 'agent' includes, unless the context requires otherwise, the estate or personal representative of a person who acted in that capacity.

(5) 'Official capacity' means: (i) when used with respect to a director, the office of director in a corporation; and (ii) when used with respect to an individual other than a director, as contemplated in G.S. 55-8-56, the office in a corporation held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the corporation. 'Official capacity' does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, employee benefit plan, or other enterprise.

(6) 'Party' includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(7) 'Proceeding' means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal."

Sec. 13. G.S. 55-8-03(b) reads as rewritten:

"(b) The shareholders may from time to time increase or decrease the number of directors by amendment to the articles of incorporation

or the bylaws, but no such decrease shall be made for a corporation to which G.S. 55-7-28(e) is applicable when the number of shares voting against the proposal for decrease would be sufficient to elect a director by cumulative voting if such shares are entitled to be voted cumulatively for the election of directors. If a board of directors has power under the articles of incorporation or bylaws to fix or change the number of directors and if the shareholders do not have the right to cumulate their votes for directors, the board may increase or decrease the number of directors by not more than thirty percent (30%) during any 12-month period."

Sec. 14. G.S. 55-11-03(g) reads as rewritten:

"(g) Action by the shareholders of the surviving corporation on a plan of merger is not required if:

(1) The articles of incorporation of the surviving corporation will not differ (except for amendments enumerated in G.S. 55-10-02) from its articles before the merger;

(2) Each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same ~~number of~~ shares, with identical designations, preferences, limitations, and relative rights, immediately after the effective date of the merger;

(3) The number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than twenty percent (20%) the total number of voting shares of the surviving corporation outstanding immediately before the merger; and

(4) The number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than twenty percent (20%) the total number of participating shares outstanding immediately before the merger."

Sec. 15. G.S. 55-14-20 reads as rewritten:

"*§ 55-14-20. Grounds for administrative dissolution.*

The Secretary of State may commence a proceeding under G.S. 55-14-21 to dissolve administratively a corporation if:

(1) The corporation does not pay within 60 days after they are due any penalties, fees, or other payments due under this Chapter;

(2) The corporation does not deliver its annual report to the Secretary of State within 60 days after it is due;
(3) The corporation is without a registered agent or registered office in this State for 60 days or more;
(4) The corporation does not notify the Secretary of State within 60 days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; ~~or~~
(5) The corporation's period of duration stated in its articles of incorporation ~~expires.~~ expires; or
(6) The corporation knowingly fails or refuses to answer truthfully and fully within the time prescribed in this Chapter interrogatories propounded by the Secretary of State in accordance with the provisions of this Chapter."

Sec. 16. G.S. 55-15-01(a) reads as rewritten:

"(a) A foreign corporation may not transact business in this State until it obtains a certificate of authority from the Secretary of ~~State under this Chapter or under Chapter 55A of the General Statutes.~~ State."

Sec. 17. G.S. 55-15-08 is amended by adding a new subsection to read:

"(c) A foreign corporation authorized to transact business in this State may change its registered office or registered agent by including in its annual report required by G.S. 55-16-22 the information and any written consent required by subsection (a) of this section."

Sec. 18. G.S. 55-15-30(a) reads as rewritten:

"(a) The Secretary of State may commence a proceeding under G.S. 55-15-31 to revoke the certificate of authority of a foreign corporation authorized to transact business in this State if:
(1) The foreign corporation does not deliver its annual report to the Secretary of State within 60 days after it is due;
(2) The foreign corporation does not pay within 60 days after they are due any penalties, fees, or other payments due under this Chapter;
(3) The foreign corporation is without a registered agent or registered office in this State for 60 days or more;
(4) The foreign corporation does not inform the Secretary of State under G.S. 55-15-08 or G.S. 55-15-09 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within 60 days of the change, resignation, or discontinuance;
(5) An incorporator, director, officer, or agent of the foreign corporation signed a document he knew was false in any

material respect with intent that the document be delivered to the Secretary of State for filing;

(6) The Secretary of State receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger;

(7) The corporation is exceeding the authority conferred upon it by this ~~Chapter.~~ Chapter; or

(8) The corporation knowingly fails or refuses to answer truthfully and fully within the time prescribed in this Chapter interrogatories propounded by the Secretary of State in accordance with the provisions of this Chapter."

Sec. 19. G.S. 55-16-02 is amended by adding new subsections to read:

"(h) A qualified shareholder of a corporation that has the power to elect, appoint, or designate a majority of the directors of another domestic or foreign corporation or of a domestic or foreign nonprofit corporation, shall have the inspection rights provided in this section with respect to the records of that other corporation.

(i) Notwithstanding the provisions of this section or any other provisions of this Chapter or interpretations thereof to the contrary, a shareholder of a public corporation shall have no common law rights to inspect or copy any accounting records of the corporation or any other records of the corporation that may not be inspected or copied by a shareholder of a public corporation as provided in G.S. 55-16-02(b)."

Sec. 20. G.S. 54-139 reads as rewritten:

"*§ 54-139. ~~Domestication of foreign~~ Foreign cooperative corporations; limitation on use of word 'cooperative.'*

(a) A foreign corporation (with or without capital stock) that can qualify as an association, as defined in G.S. 54-130(2)b1 and 2, ~~may, under the provisions of Article 8, Chapter 55A, if it be a nonstock corporation, or under the provisions of Article 10, Chapter 55, if it be a stock corporation,~~ may be authorized to transact business in this ~~State.~~ State under the provisions of Chapter 55A of the General Statutes.

(b) No person other than an association organized under this Subchapter, or a foreign corporation ~~domesticated~~ authorized to transact business in this State pursuant to subsection (a) of this section, or an electric or telephone membership corporation domesticated pursuant to G.S. 117-28, or an organization created under or governed by Subchapter IV of Chapter 54 of the General

Statutes, shall be entitled to organize, domesticate, or transact business in this State if the corporate or other business name or title of such person contains the word 'cooperative.'"

Sec. 21. This act becomes effective October 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 544

CHAPTER 553

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE TECHNICAL CORRECTIONS TO OTHER GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-37 is repealed.

Sec. 2. G.S. 36A-52(a) reads as rewritten:

"(a) Declaration of Policy. -- It is hereby declared to be the policy of the State of North Carolina that gifts, transfers, grants, bequests, and devises for religious, educational, charitable, or benevolent uses or purposes, or for some or all of such uses or purposes, are and shall be valid, notwithstanding the fact that any such gift, transfer, grant, bequest, or devise shall be in general terms, and this section shall be construed liberally to ~~affect~~ effect the policy herein declared."

Sec. 3. G.S. 120-47.8(3)b. reads as rewritten:

"b. Notwithstanding the persons exempted in this Article, the Governor, Council of State, and all appointed heads of State departments, agencies and institutions, shall designate all authorized official legislative liaison personnel and shall file and maintain current lists of designated legislative liaison personnel with the Secretary of State and shall likewise file with the Secretary of State a full and accurate accounting of all money expended on lobbying, other than the salaries of regular full-time employees, at the same times lobbyists are required to file expense reports under ~~G.S. 120-47.5,~~ G.S. 120-47.6."

Sec. 4. G.S. 143-170.5 reads as rewritten:

"*§ 143-170.5. Designated public documents to be printed on alkaline paper.*

The State Librarian and the University Librarian at the University of North Carolina at Chapel Hill shall designate annually as provided by ~~G.S. 125-11.12~~ G.S. 125-11.13 those State documents that must

be printed on alkaline paper. Each agency publishing a State document designated by the State Librarian and the University Librarian at the University of North Carolina at Chapel Hill as one that must be printed on alkaline paper shall comply with that publication requirement."

Sec. 5. G.S. 143-299.3(a) reads as rewritten:

"(a) Notwithstanding G.S. 14-247 and G.S. 143-341(8)i, the Department of Administration or any other department of State government may allow North Carolina Amateur Sports to have the use of State trucks and vans for the 1989 and the 1990 State Games of North Carolina. There will not be any charge for use of vehicles under this ~~act.~~ section."

Sec. 6. G.S. 1-567.41(b) reads as rewritten:

"(b) The parties may agree on a procedure of appointing the ~~arbitrator~~ arbitral tribunal subject to the provisions of subsections (d) and (e) of this section."

Sec. 7. G.S. 7A-38(l) reads as rewritten:

"(l) ~~Inadmissability~~ Inadmissibility of negotiations. All conduct or communications made during a mediated settlement conference are presumed to be made in compromise negotiations and shall be governed by Rule 408 of the North Carolina Rules of Evidence."

Sec. 8. G.S. 14-108 reads as rewritten:

"§ *14-108. Obtaining property or services from slot machines, etc., by false coins or tokens.*

Any person who shall operate, or cause to be operated, or who shall attempt to operate, or attempt to cause to be operated any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever not lawfully authorized by the owner, lessee or licensee, of such machine, coin-box telephone or ~~receptable,~~ receptacle, or who shall take, obtain or receive from or in connection with any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value, or the use or enjoyment of any telephone or telegraph facilities or service, or of any musical instrument, phonograph or other property, without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, shall be guilty of a

misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both."

Sec. 9. G.S. 14-129 reads as rewritten:

"*§ 14-129. Taking, etc., of certain wild plants from land of another.*

No person, firm or corporation shall dig up, pull up or take from the land of another or from any public domain, the whole or any part of any Venus flytrap (Dionaea muscipula), trailing arbutus, Aaron's Rod (Thermopsis caroliniana), Bird-foot Violet (Viola pedata), Bloodroot (Sanguinaria canadensis), Blue Dogbane (Amsonia tabernaemontana), Cardinal-flower (Lobelia cardinalis), Columbine (Aquilegia ~~canadensis),~~ canadensis), Dutchman's Breeches (Dicentra cucullaria), Maidenhair Fern (Adiantum pedatum), Walking Fern (Camptosorus rhizophyllus), Gentians (Gentiana), Ginseng (Panax quinquefolium), Ground Cedar, Running Cedar, Hepatica (Hepatica americana and acutiloba), Jack-in-the-Pulpit (Arisaema triphyllum), Lily (Lilium), Lupine (Lupinus), Monkshood (Aconitum uncinatum and reclinatum), May Apple (Podophyllum peltatum), Orchids (all species), Pitcher Plant (Sarracenia), Sea Oats (Uniola paniculata), Shooting Star (Dodecantheon meadia), Oconee Bells (Shortia galacifolia), Solomon's Seal (Polygonatum), Trailing Christmas (Greens-Lycopodium), Trillium (Trillium), Virginia Bluebells (Mertensia virginica), and Fringe Tree (Chionanthus virginicus), American holly, white pine, red cedar, hemlock or other coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea, without having in his possession a permit to dig up, pull up or take such plants, signed by the owner of such land, or by his duly authorized agent. Any person convicted of violating the provisions of this section shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) for each offense. The provisions of this section shall not apply to the Counties of Cabarrus, Carteret, Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham, Rowan and Swain."

Sec. 10. G.S. 20-279.24(a) reads as rewritten:

"(a) Proof of financial responsibility may be furnished by filing with the Commissioner the bond of a surety company duly authorized to transact business in the State or a bond with at least two individual sureties each owning real estate within this State, and together having equities in such real estate over and above any encumbrances thereon equal in value to at least twice the amount of such bond, which real estate shall be scheduled in the bond which shall be approved by the clerk of the superior court of the county wherein the real estate is

situated. Such bond shall be conditioned for payments in amounts and under the same circumstances as would be required in a motor vehicle liability policy, and shall not be cancellable except after 20 days' written notice to the Commissioner. A certificate of the county tax supervisor or person performing the duties of the tax supervisor, showing the assessed valuation of each tract or parcel of real estate for tax purposes shall accompany a bond with individual sureties and, upon acceptance and approval by the Commissioner, the execution of such bond shall be proved before the clerk of the superior court of the county or counties wherein the land or any part thereof lies, and such bond shall be recorded in the office of the register of deeds of such county or counties. Such bond shall constitute a lien upon the real estate therein described from and after filing for recordation to the same extent as in the case of ordinary mortgages and shall be regarded as the equivalent of a mortgage or deed of trust. In the event of default in the terms of the bond the Commissioner may foreclose the lien thereof by making public sale upon publishing notice thereof as provided by ~~subsection (b) of~~ G.S. 45-21.17; provided, that any such sale shall be subject to the provisions for upset or increased bids and resales and the procedure therefor as set out in Part 2 of Article 2A of Chapter 45 of the General Statutes. The proceeds of such sale shall be applied by the Commissioner toward the discharge of liability upon the bond, any excess to be paid over to the surety whose property was sold. The Commissioner shall have power to so sell as much of the property of either or both sureties described in the bond as shall be deemed necessary to discharge the liability under the bond, and shall not be required to apportion or prorate the liability as between sureties.

If any surety is a married person, his or her spouse shall be required to execute the bond, but only for the purpose of releasing any dower or curtesy interest in the property described in the bond, and the signing of such bond shall constitute a conveyance of dower or curtesy interest, as well as the homestead exemption of the surety, for the purpose of the bond, and the execution of the bond shall be duly acknowledged as in the case of deeds of conveyance. The Commissioner may require a certificate of title of a duly licensed attorney which shall show all liens and encumbrances with respect to each parcel of real estate described in the bond and, if any parcel of such real estate has buildings or other improvements thereon, the Commissioner may, in his discretion, require the filing with him of a policy or policies of fire and other hazard insurance, with loss clauses payable to the Commissioner as his interest may appear. All costs and expenses in connection with furnishing such bond and the registration thereof, and the certificate of title, insurance and other necessary

items of expense shall be borne by the principal obligor under the bond, except that the costs of foreclosure may be paid from the proceeds of sale."

Sec. 11. G.S. 20-347(a) reads as rewritten:

"(a) In connection with the transfer of a motor vehicle, the transferor shall disclose the mileage to the transferee in writing on the title or on the document used to reassign the title. This written disclosure must be signed by the transferor, including the printed name, and shall contain the following information:

(1) The odometer reading at the time of the transfer (not to include tenths of miles);
(2) The date of the transfer;
(3) The transferor's name and current address;
(3a) The transferee's printed name, signature and current address;
(4) The identity of the vehicle, including its make, model, body type, and vehicle identification number, and the license plate number most recently used on the vehicle; and
(5) Certification by the transferor that to the best of his knowledge the odometer ~~reading;~~ reading
   a. Reflects the actual mileage; or
   b. Reflects the amount of mileage in excess of the designed mechanical odometer limit; or
   c. Does not reflect the actual mileage and should not be relied on.
(6) Repealed by Session Laws 1989, c. 482, s. 2.
(7) Repealed by Session Laws 1989, c. 482. s. 2."

Sec. 12. G.S. 22B-1 reads as rewritten:

"*§ 22B-1. Construction indemnity agreements invalid.*

Any promise or agreement in, or in connection with, a contract or agreement relative to the design, planning, construction, alteration, repair or maintenance of a building, structure, highway, road, appurtenance or appliance, including moving, demolition and excavating connected therewith, purporting to indemnify or hold harmless the promisee, the promisee's independent contractors, agents, employees, or indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of the promisee, its independent contractors, agents, employees, or indemnitees, is against public policy and is void and unenforceable. Nothing contained in this section shall prevent or prohibit a contract, promise or agreement whereby a promisor shall indemnify or hold harmless any promisee or the promisee's independent contractors, agents, employees or indemnitees against liability for damages

resulting from the sole negligence of the promisor, its agents or employees. This section shall not affect an insurance contract, worker's compensation, or any other agreement issued by an ~~insuror,~~ insurer, nor shall this section apply to promises or agreements under which a public utility as defined in G.S. 62-3(23) including a railroad corporation as an indemnitee. This section shall not apply to contracts entered into by the Department of Transportation pursuant to G.S. 136-28.1."

Sec. 13. G.S. 44A-23(b)(1)i. reads as rewritten:

"i. The contractor, within 30 days following the date ~~of~~ the building permit is issued for the improvement of the real property involved, posts on the property in a visible location adjacent to the posted building permit and files in the office of the Clerk of Superior Court in each county wherein the real property to be improved is located, a completed and signed Notice of Contract form and the second or third tier subcontractor fails to serve upon the contractor a completed and signed Notice of Subcontract form by the same means of service as described in G.S. 44A-19(d); or".

Sec. 14. G.S. 48-36(f) reads as rewritten:

"(f) Within 10 days after the order of adoption is entered, the clerk must file with the Department of ~~Environment, Health, and Natural~~ Human Resources a copy of the petition giving the date of the filing of the original petition, the consent of the person sought to be adopted, and the order of adoption, and the Department of ~~Environment, Health, and Natural~~ Human Resources must cause all papers pertaining to the proceeding to be permanently registered and filed."

Sec. 15. G.S. 54-67(a) reads as rewritten:

"(a) Notice of redemption of bonds may on no account be given on the part of the holder thereof, but may be given by the association only for the purpose of ~~affecting~~ effecting redemption in accordance with the conditions of the bonds and as provided by law and the bylaws."

Sec. 16. G.S 58-19-15(e) reads as rewritten:

"(e) The public hearing referred to in subsection (d) of this section shall be held within 120 days after the statement required by subsection (a) of this section is filed, and the Commissioner shall give at least 30 days notice of the hearing to the person filing the statement, to the insurer, and to such other persons as may be designated by the Commissioner. The Commissioner shall make a determination as expeditiously as is reasonably practicable after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was

sent, and any other person whose interest may be affected by the hearing shall have the right to present evidence, examine and cross-examine witnesses, and offer oral or written arguments; and in connection therewith shall be entitled to conduct discovery proceedings at any time after the statement is filed with the Commissioner under this section and in the same manner as is presently allowed in the superior courts of this State. In connection with discovery proceedings authorized by this section, the Commissioner may issue such protective orders and other orders governing the timing and scheduling of discovery proceedings as might otherwise have been issued by a superior court of this State in connection with a civil proceeding. If any party fails to make reasonable and adequate response to discovery on a timely basis or fails to comply with any order of the Commissioner with respect to discovery, the Commissioner on the Commissioner's own motion or on motion of any other party or person may order that the hearing be postponed, recessed, convened, or reconvened, as the case may be, following proper completion of discovery and reasonable notice to the person filing the statement, to the insurer, and to such other persons as may be designated by the Commissioner."

Sec. 17. G.S. 58-51-15(f)(1) reads as rewritten:

"(1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this State, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of ~~this Subchapter~~ Articles 50 through 55 of this Chapter and which is prescribed or required by the law of the state under which the insurer is organized."

Sec. 18. G.S. 58-51-30 reads as rewritten:

"*§ 58-51-30. Policies to cover newborn infants and adopted children.*

Every policy of insurance and every hospital service or medical service plan as defined in Articles 65 and 66 of this Chapter, and any health care plan operated by a health maintenance organization as defined in Article 67 of this Chapter (regardless of whether any of such policies or plans shall be defined as individual, family, group, blanket, franchise, industrial or otherwise) that provides benefits on account of any sickness, illness, or disability of any minor child or that provides benefits on account of any medical treatment or service authorized or permitted to be furnished by a hospital under the laws of this State to any minor child shall provide the benefits for those occurrences beginning with the moment of the child's birth if the birth occurs while the policy, subscriber contract, or evidence of coverage with such a plan is in force. Adoptive children shall be treated the same as newborn infants and eligible for coverage on the

same basis upon placement in the adoptive home, regardless of whether a final decree of adoption has been entered; provided that a petition for adoption has been duly filed and is pursued to a final ~~degree~~ decree of adoption.

Benefits in such insurance policies, plans, or evidence of coverage shall be the same for congenital defects or anomalies as are provided for most sicknesses or illnesses suffered by minor children which are covered by the policies, plans, or evidence of coverage. Benefits for congenital defects or anomalies shall specifically include, but not be limited to, all necessary treatment and care needed by individuals born with cleft lip or cleft palate.

No policy or plan subscriber contract or evidence of coverage shall be approved by the Commissioner of Insurance pursuant to the provisions of this Article or the provisions of Articles 65, 66, and 67 of this Chapter that does not comply with the provisions of this section.

The provisions of this section shall apply both to insurers governed by the provisions of Articles 1 through 64 of this Chapter and to corporations governed by the provisions of Articles 65, 66, and 67 of this Chapter."

Sec. 19. G.S. 58-54-1(5) reads as rewritten:

"(5) 'Policy' means a Medicare supplement policy, which is a group or individual policy of accident and health insurance under Articles 1 through 64 of this Chapter, a subscriber contract under Articles 65 and 66 of this Chapter, or an evidence of coverage under Article 67 of this Chapter, other than a policy issued pursuant to a contract under section 1876 or section 1833 of the federal Social Security Act ~~(42)~~ (42 U.S.C. § 1395 **et seq.**), or an issued policy under a demonstration project authorized pursuant to amendments to the federal Social Security Act, that is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare."

Sec. 20. G.S. 58-55-30(a) reads as rewritten:

"(a) The Commissioner may adopt rules that ~~includes~~ include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, pre-existing conditions, termination of insurance, probationary periods, limitations, exceptions, reductions, elimination

periods, requirements for replacement, recurrent conditions, and definitions of terms."

Sec. 21. G.S. 58-60-15(c) reads as rewritten:

"(c) In the case of policies whose Equivalent Level Death Benefit does not exceed five thousand dollars ($5,000), the requirement for providing a Policy Summary will be satisfied by delivery of a written statement containing the information described in G.S. ~~58-60-10, paragraphs~~ 58-60-10(7), subdivisions b, c, d, e1, e2, e3, f, g, j, and k."

Sec. 22. G.S. 58-70-15(8) reads as rewritten:

"(8) ~~Attorney[s]-at-law~~ Attorneys-at-law handling claims and collections in their own name and not operating a collection agency under the management of a layman;".

Sec. 23. G.S. 63A-11(c) reads as rewritten:

"(c) Bonds and notes issued under this section may be secured by one or more agreements, including ~~foreecloseable~~ foreclosable deeds of trust and other trust instruments. An agreement may pledge and assign to the trustee or the holders of its obligations the assets, revenues, and income provided for the security of the bonds or notes, including proceeds from the sale of any special user project or part thereof, insurance proceeds, condemnation awards, and third-party agreements, and may convey or mortgage the project and other property and collateral to secure a bond issue.

The Authority may subordinate the bonds or notes or its rights, assets, revenues, and income derived from any special user project to any prior, contemporaneous, or future securities or obligations or lien, mortgage, or other security interest."

Sec. 24. G.S. 65-43(2) reads as rewritten:

"(2) A 'legal resident' of a state means a person whose ~~principle~~ principal residence or abode is in that state, who uses that state to establish his right to vote and other rights in a state, and who intends to live in that state, to the exclusion of maintaining a legal residence in any other state."

Sec. 25. G.S. 75E-1(4) reads as rewritten:

"(4) 'Person' includes 'entity' (as that term is defined in G.S. ~~55-1-40(9),~~ 55-1-40(9)), 'individual' (as that term is defined in G.S. 55-1-40(13)) and, without limiting the generality of the foregoing, 'other entity' (as that term is defined in G.S. 55-9-01(b)(6))."

Sec. 26. G.S. 87-10(1a) reads as rewritten:

"(1a) Residential contractor, which shall include any general contractor constructing only residences which are required to conform to the ~~North Carolina Uniform Residential Building Code (Vol. 1-B);~~ residential building code

adopted by the Building Code Council pursuant to G.S. 143-138;".

Sec. 27. G.S. 90-210.60(3) reads as rewritten:

"(3) 'Insurance company' means any corporation, association, partnership, society, order, individual or aggregation of individuals engaging in or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships, and ~~corporations.~~ corporations;".

Sec. 28. G.S. 90-321(b)(1) reads as rewritten:

"(1) It is determined by the attending physician that the declarant's present condition is

a. ~~Terminal; and~~ Terminal and incurable; or

~~b. Incurable; or~~

c. Diagnosed as a persistent vegetative state; and".

Sec. 29. G.S. 90-322(a)(1) reads as rewritten:

"(1) It is determined by the attending physician that the person's present condition is:

a. ~~Terminal; and~~ Terminal and incurable; or

~~b. Incurable; or~~

c. Diagnosed as a persistent vegetative state; and".

Sec. 29.1. Effective at the same time that Section 11 of Chapter 419 of the 1993 Session Laws becomes effective, G.S. 93A-32(2) as rewritten by Section 11 of Chapter 419 of the 1993 Session Laws reads as rewritten:

"(2) 'Private real estate school' means any real estate educational entity which is privately owned and operated by an individual, partnership, corporation or association, and which conducts, for a profit or tuition charge, real estate salesman or broker prelicensing courses prescribed by G.S. 93A-4(a), provided that a ~~private~~ proprietary business or trade school licensed by the State Board of Community Colleges under G.S. 115D-90 to conduct courses other than those real estate courses described herein shall not be considered to be a private real estate school."

Sec. 30. G.S. 96-8(13)a. reads as rewritten:

"a. 'Wages' shall include commissions, bonuses, any sums paid to an employee by an employer pursuant to an order of any court, the National Labor Relations Board, or any other lawfully constituted adjudicative agency or by private agreement, consent, or arbitration for loss of pay by reason of discharge, and the cash value of all remuneration in any medium other than cash. The

reasonable cash value of ~~renumeration~~ remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the Commission; provided, if the remuneration of an individual is not based upon a fixed period or duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week or for any calendar quarter for the purpose of computing an individual's right to unemployment benefits only shall be determined in such manner as may by authorized regulations be prescribed. The regulations shall, so far as possible, secure results reasonably similar to those that would prevail if the individual were paid his wages at regular intervals. The term 'wages' shall not include the amount of any payment with respect to services to, or on behalf of, an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment), on account of (i) retirement, or (ii) sickness or accident disability, or (iii) medical and hospitalization expenses in connection with sickness or accident disability or (iv) death. However, in the case of payments made to an employee or any of his dependents on account of sickness or accident disability, only payments which are received under a worker's compensation law shall be excluded from the term 'wages'. Furthermore, the term 'wages' shall not include payment by an employer without deduction from the remuneration of the employee of the tax imposed upon an employee under the Federal Insurance Contributions Act."

Sec. 31. G.S. 108A-14(a)(8) reads as rewritten:

"(8) To supervise domiciliary homes for aged or disabled persons under the rules and regulations of the Social Services ~~Commission.~~ Commission;".

Sec. 32. G.S. 110-91(11) reads as rewritten:

"(11) Staff Development. -- The Commission shall adopt minimum standards for ongoing staff development for facilities. These standards shall include requirements for ongoing ~~inservice~~ in-service training for all staff."

Sec. 32.1. G.S. 113-270.4(a) reads as rewritten:

"(a) No one may serve for hire as a hunting or fishing guide without having first procured a current and valid hunting and fishing guide license. This license is valid only for use by an individual meeting the criteria set by the Wildlife Resources Commission for issuance of the license subject to the limitations set forth in this ~~subdivision.~~ section. Possession of the hunting and fishing guide license does not relieve the guide from meeting other applicable license requirements. A nonresident may be licensed pursuant to this section only upon the same or similar terms that a North Carolina resident may be licensed in the nonresident's state of residence. The Wildlife Resources Commission may enter into such reciprocal agreements with other states as are necessary to obtain a hunting and fishing guide license in North Carolina subject to the foregoing provisions."

Sec. 32.2. G.S. 115D-87(3) reads as rewritten:

"(3) 'Proprietary business school' or 'business school' means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers business and office related courses for which tuition is charged, in ~~and other related~~ business or office related subjects or subjects of general education when they contribute value to the objective of the course of study. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision."

Sec. 33. G.S. 116-40.2 reads as rewritten:

"*§ 116-40.2. Authorization to purchase insurance in connection with construction and operation of nuclear reactors.*

In connection with the construction of, assembling of, use and operation of, any nuclear reactor now owned or hereafter acquired by it, North Carolina State University is hereby authorized and empowered to procure proper insurance against the hazards of explosion, implosion, radiation and any other special hazards unique to nuclear reactors, including nuclear fuel and all other components thereto. Further, North Carolina State University is authorized to enter into agreements with the United States Atomic Energy Commission prerequisite to licensing by that agency of nuclear reactors and to maintain as a part of such agreement or agreements appropriate insurance in amounts required by the Atomic Energy Commission of nuclear reactor licenses.

To the extent that North Carolina State University shall obtain insurance under the provisions of this section, it is hereby authorized and empowered to waive its governmental immunity from liability for

damage to property or injury to ~~[or]~~ or death to persons arising from the assembling, construction of, use and operation of nuclear reactors. Such immunity shall be deemed to have been waived by the act of obtaining such insurance, but only to the extent that North Carolina State University is indemnified by such insurance.

Any contract of insurance purchased pursuant to this section must be issued by a company or corporation duly licensed and authorized to do a business of insurance in this State except to the extent that such insurance may be furnished by or through a governmental agency created for the purpose of insuring against such hazards or through reinsurance pools or associations established to insure against such hazards.

Any person sustaining property damage or personal injury may sue North Carolina State University for damages for injury arising out of the construction, assembly, use or operation of a nuclear reactor on the campus of the University in the Superior Court of Wake County, and to the extent that the University is indemnified by insurance, it shall be no defense to any such action that the University was engaged in the performance of a governmental or discretionary function of the University. In the case of death alleged to have been caused by the assembly, construction, use or operation of such nuclear reactor, the personal representative of the deceased person may bring such action.

Nothing in this section shall in any way affect any other actions which have been or may hereafter be brought under the Tort Claims Act against North Carolina State University, nor shall the provisions of this section in any way abrogate or replace the provisions of the Workers' Compensation Act."

Sec. 34. The second G.S. 120-2(c)(4) reads as rewritten:

"(4) Mecklenburg County Tract 0044 Block 906F is shown on the computer database as part of OAK when it is in fact correctly shown on the Board of Elections map as part of Charlotte Pct. 16;".

Sec. 35. The title of Article 15 of Chapter 120 reads as rewritten:

"ARTICLE 15.

~~Retirement Systems~~ Legislative Actuarial Note Act."

Sec. 36. G.S. 122C-146 reads as rewritten:

"*§ 122C-146. Fee for service.*

The area authority and its contractual agencies shall prepare fee schedules for services and shall make every reasonable effort to collect appropriate reimbursement for costs in providing these services from individuals or entities able to pay, including insurance and third-party payment, except that individuals may not be charged for services involving multidisciplinary evaluations, intervention plan development,

and case management services provided to eligible infants and toddlers and their families. This exemption from charges does not exempt ~~insurors~~ insurers or other third-party payors from being charged for payment for these services. However, no individual may be refused services because of an inability to pay. All funds collected from fees from area authority operated services shall be used for the fiscal operation or capital improvements of the area authority's programs. The collection of fees by an area authority may not be used as justification for reduction or replacement of the budgeted commitment of local tax revenue."

Sec. 37. G.S. 122D-6(11) reads as rewritten:

"(11) Accept federal, State or private financial or technical assistance and comply with any conditions for such assistance, ~~proved~~ provided such conditions are not in conflict with the intent of this Chapter;".

Sec. 38. G.S. 122D-6(20) reads as rewritten:

"(20) Purchase or participate in the purchase and enter into commitments by itself or together with others for the purchase of federally ~~issured~~ issued securities; provided that the proceeds of such securities will be utilized in accordance with the provisions of this Chapter."

Sec. 39. G.S. 126-5(c)(1)b. reads as rewritten:

"b. Is in a secondary level or professional position and has not been continuously employed by the State of North Carolina for the immediate 24 preceding months; or".

Sec. 40. G.S. 126-5(c1)(9) reads as rewritten:

"(9) Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), ~~116-11(5),~~ 116-11(5), and 116-14."

Sec. 40.1. G.S. 130A-14(a) reads as rewritten:

"(a) The Secretary may allow employees of the Department to assist any private nonprofit foundation that works directly with services or programs of the Department and whose sole purpose is to support the services and programs of the Department, and may provide other appropriate services to any such foundation. No employee of the Department may work with a foundation for more than 20 hours in any one month. Chapter 150B of the General Statutes does not apply to any assistance ~~of~~ or services provided to a private nonprofit foundation pursuant to this section."

Sec. 41. G.S. 130A-295.02(i) reads as rewritten:

"(i) A resident inspector shall be assigned to a commercial hazardous waste facility for a maximum of 12 consecutive months or 18 months in a 24-month period. A resident inspector who has been

assigned to a commercial hazardous waste facility for the maximum period allowed by this subsection shall not be reassigned to that facility within 12 months of the time he was previously assigned to that facility. For purposes of this subsection, 'commercial hazardous waste facility' means that facility and any other commercial hazardous waste facility ~~which~~ that is operated by the same business entity or by a parent, subsidiary, or affiliate of that business entity. As used in this subsection, the words 'affiliate,' 'parent,' and 'subsidiary' have the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1990 Edition)."

Sec. 42. G.S. 131A-2 reads as rewritten:

"§ *131A-2. Legislative findings.*

It is hereby declared to be the policy of the State of North Carolina to promote the public health and welfare by providing means for financing, refinancing, acquiring, constructing, equipping and providing of health care facilities to serve the people of the State and to make accessible to them modern and efficient health care facilities.

The General Assembly hereby finds and declares that:

(1) There is a need to overcome existing and anticipated physical and technical obsolescence of existing health care facilities and to provide additional modern and efficient health care facilities in the State; and

(2) Unless measures are adopted to alleviate such need, the shortage of such facilities will become increasingly more urgent and serious; and

(3) In order to meet such shortage and thereby promote the public health and welfare of the people of the State, it is necessary for the State to assist in the providing of adequate modern and efficient health care facilities in the State so that health and hospital care and services may be expanded, improved and fostered to the fullest extent practicable.

The General Assembly hereby further finds and declares that the financing, refinancing, acquiring, constructing, equipping and providing of health care facilities are public uses and public purposes and that enactment of this ~~Part~~ Chapter is necessary and proper for effectuating the purposes hereof."

Sec. 43. G.S. 131C-11 reads as rewritten:

"§ *131C-11. Denial and revocation of license.*

(a) The Department shall deny a license applied for under G.S. 131C-4 or 131C-6 or revoke a license after issuance for the following reasons:

(1) The application is incomplete.

(2) The application fee has not been paid.

(3) The application contains one or more false statements.

(4) The charitable contributions have or are not being applied for the purpose or purposes stated in the application.

(5) The applicant or licensee has failed to comply with any provisions ~~or~~ of this Chapter or any rule adopted pursuant to the Chapter.

(b) The Department shall notify the applicant or licensee of its intent to deny or revoke a license. The notification shall contain the reasons for the action and shall inform him of his right to correct the matter or to request an administrative hearing within 10 days of the receipt of the notification. The denial or revocation shall become effective 10 days after receipt of the notification unless the matter is corrected or a request for an administrative hearing is received by the Department before the expiration of the 10 days. If a hearing is requested and the denial or revocation is upheld, the denial or revocation shall become effective upon the service of the final administrative decision on the applicant ~~of~~ or licensee."

Sec. 44. G.S. 131D-3(a) reads as rewritten:

"(a) The Department of Human Resources, Division of Social Services, by January 1, 1982, shall develop a cost and revenue reporting form for use by all domiciliary care facilities. This form shall be based on the uniform chart of accounts required in G.S. 131D-4. All facilities that receive funds under the State-County Special Assistance for Adults Program shall report total costs and revenues to the Department of Human Resources by March 1 of each year. Facilities licensed under the provisions of G.S. 131D-2(a)(5) shall report total costs and revenues beginning with a report that covers the ~~twelve month~~ twelve-month period beginning January 1, 1993. Facilities operated by or under contract with Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities shall report total costs and revenues beginning with a report that covers the ~~twelve month~~ twelve-month period beginning July 1, 1992. Combination facilities providing either intermediate or skilled care in addition to domiciliary care shall report total costs and revenues beginning with a report that covers the ~~twelve month~~ twelve-month period beginning October 1, 1992. All facilities shall be required to permit access to any requested financial records by representatives of the Department of Human Resources for audit purposes effective July 1, 1981."

Sec. 45. G.S. 131D-4 reads as rewritten:

"*§ 131D-4. Domiciliary care facilities; uniform chart of accounts.*

The Department of Human Resources, Division of Social Services, by January 1, 1982, shall develop a uniform chart of accounts for use by all domiciliary care facilities funded totally or in part through the State-County Special Assistance for Adults Program. The Division

shall consult with representatives from the domiciliary care industry in developing the new accounting system. The Division shall require domiciliary care facilities covered by this section to implement this chart of accounts by January 1, 1983, unless otherwise provided by this section. Facilities licensed under the provisions of G.S. 131D-2(a)(5) shall implement this chart of accounts beginning with the ~~twelve-month~~ twelve-month period beginning January 1, 1993. Facilities operated by or under contract with Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities shall implement this chart of accounts beginning with the ~~twelve-month~~ twelve-month period beginning July 1, 1992. Combination facilities providing either intermediate or skilled care in addition to domiciliary care shall implement this chart of accounts beginning with the ~~twelve-month~~ twelve-month period beginning October 1, 1992.

The Department may take either or both of the following actions to enforce compliance by a facility with this section or to punish noncompliance:

(1) Seek a court order to enforce compliance;

(2) Suspend or revoke the facility's license, subject to the provisions of Chapter 150B."

Sec. 46. G.S. 143B-153(3)b. reads as rewritten:

"b. For the inspection and licensing of ~~domiliciary~~ domiciliary homes for aged or disabled persons as provided by G.S. 131D-2(b) and for personnel requirements of staff employed in domiciliary homes. Any proposed personnel requirements that would impose additional costs on owners of domiciliary homes shall be reviewed by the Joint Legislative Commission on Governmental Operations before they are adopted;".

Sec. 47. G.S. 143B-399(4a) reads as rewritten:

"(4a) To promulgate rules concerning the awarding of the North Carolina Services Medal to all veterans who have served in any period of war as defined in 38 ~~U.S.C. § 101,~~ U.S.C. § 101. The award shall be self-financing; those who wish to be awarded the medal shall pay a fee to cover the expenses of producing the medal and awarding the medal. All rules adopted by the Commission with respect to the North Carolina Services Medal shall be implemented and enforced by the Division of Veterans' Affairs; and".

Sec. 48. G.S. 143B-472.3, Article 11 reads as rewritten:

"Article 11. Assessments shall be made as provided in ~~G.S. 143-472.18,~~ G.S. 143B-472.18. Whenever possible, assessments will

be made at definitely stated intervals so as to reduce the cost of collection and to prevent lapse."

Sec. 49. G.S. 143B-472.3, Article 12 reads as rewritten:

"Article 12. In the event the proceeds of the annual assessments imposed on the entire membership for one year, as provided in ~~G.S. 143-472.18,~~ G.S. 143B-472.18, do not prove sufficient at any time to yield the benefit provided for in these bylaws, then the secretary-treasurer shall notify the North Carolina Burial Association Administrator who shall be authorized, unless the membership is increased to that point where such assessments are sufficient, to cause liquidation of said association, and may transfer all members in good standing to a like organization or association."

Sec. 50. G.S. 143B-472.35(l)(1) reads as rewritten:

"(1) The total amount of private funds that ~~were~~ was committed and the amount that ~~were~~ was invested in the designated downtown area during the preceding fiscal year;".

Sec. 51. G.S. 143B-472.35(l)(2) reads as rewritten:

"(2) The total amount of local public matching funds that ~~were~~ was raised, if required by subdivision (g)(2) of this section;".

Sec. 52. G.S. 146-15 reads as rewritten:

"§ *146-15. Definition of net proceeds.*

For the purposes of this Subchapter, the term "net proceeds" means the gross amount received from the sale, lease, rental, or other disposition of any State lands, less

(1) Such expenses incurred incident to that sale, lease, rental, or other disposition as may be allowed under rules and regulations adopted by the Governor and approved by the Council of State; and

~~(2) Amounts paid pursuant to G.S. 105-296.1 if any; and~~

(3) A service charge to be paid into the State Land Fund.

The amount or rate of such service charge shall be fixed by rules and regulations adopted by the Governor and approved by the Council of State, but as to any particular sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount received from such sale, lease, rental, or other disposition. Notwithstanding any other provision of this Subchapter, no service charge shall be paid into the State Land Fund from proceeds derived from the sale of land or products of land owned or held for the use of the Wildlife Resources Commission, or purchased or acquired with funds of the Wildlife Resources Commission."

Sec. 52.1. G.S. 146-26.1 reads as rewritten:

"§ *146-26.1. Relocation assistance.*

In the acquisition of any real property by the Department of Administration for a public use, the Department of Administration shall be vested with the ~~same~~ authority as ~~is given the Department of Transportation in Article 13 of Chapter 136~~ set forth in Article 2 of Chapter 133 of the General Statutes."

Sec. 52.2. G.S. 146-30 reads as rewritten:

"*§ 146-30. Application of net proceeds.*

The net proceeds of any disposition made in accordance with this Subchapter shall be handled in accordance with the following priority: First, in accordance with the provisions of any trust or other instrument of title whereby title to such real property was heretofore acquired or is hereafter acquired; second, as provided by any other act of the General Assembly; third, the net proceeds shall be deposited with the State Treasurer. Provided, however, nothing herein shall be construed as prohibiting the disposition of any State lands by exchange for other lands, but if the appraised value in fee simple of any property involved in the exchange is at least twenty-five thousand dollars ($25,000), then such exchange may not be made without consultation with the Joint Legislative Commission on Governmental Operations.

For the purposes of this Subchapter, the term 'net proceeds' means the gross amount received from the sale, lease, rental, or other disposition of any State lands, less

(1) Such expenses incurred incident to that sale, lease, rental, or other disposition as may be allowed under rules and regulations adopted by the Governor and approved by the Council of State;

~~(2) Amounts paid pursuant to G.S. 105-296.1, if any;~~ and

(3) A service charge to be paid into the State Land Fund.

The amount or rate of such service charge shall be fixed by rules and regulations adopted by the Governor and approved by the Council of State, but as to any particular sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount received from such sale, lease, rental, or other disposition. Notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of land or products of land owned by or under the supervision and control of the Wildlife Resources Commission, or acquired or purchased with funds of that Commission, shall be paid into the Wildlife Resources Fund. Provided, however, the net proceeds derived from the sale of land or timber from land owned by or under the supervision and control of the Department of Agriculture shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture, to be used for such specific capital

improvement projects or other purposes as are provided by transfer of funds from those accounts in the Current Operations Appropriations Act. Provided further, the net proceeds derived from the sale of park land owned by or under the supervision and control of the Department of Environment, Health, and Natural Resources shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Administration to be used for the purpose of park land acquisition as provided by transfer of funds from those accounts in the Current Operations Appropriations Act. In the Current Operations Appropriations Act, line items for purchase of park and agricultural lands will be established for use by the Departments of Administration and Agriculture. The use of such funds for any specific capital improvement project or land acquisition is subject to approval by the Director of the Budget. No other use may be made of funds in these line items without approval by the General Assembly except for incidental expenses related to the project or land acquisition. Additionally with the approval of the Director of the Budget, either Department may request funds from the Contingency and Emergency Fund when the necessity of prompt purchase of available land can be demonstrated and funds in the capital improvement accounts are insufficient. Provided further, the net proceeds derived from the sale of any portion of the land in or around the unincorporated area known as Butner on or after July 1, 1980, shall be deposited with the State Treasurer in a capital improvement account to the credit of the Hospital to provide water and sewers and to bring those streets in the unincorporated area known as Butner not on the State highway system up to standards adequate for acceptance on the system, according to a plan adopted by the Department of Administration, and the Office of State Budget and Management, with the approval of the Board of County Commissioners of Granville County, to build industrial access roads to industries on the Butner lands, to construct new city streets on the Butner lands, extend water and sewer service on the Butner lands, and repair storm drains on the Butner lands."

Sec. 52.3. G.S. 146-65 reads as rewritten:

"§ *146-65. Exemptions from Chapter.*

None of the provisions of Chapter 146 shall apply to:

(1) The acquisition of highway rights-of-way, borrow pits, or other interests or estates in land acquired for the same or similar purposes, or to the disposition thereof, by the Board of Transportation; or

(2) The North Carolina State Ports Authority, the authority and powers thereof set forth or provided for by ~~G.S. 143-216 through G.S. 143-228.1~~ G.S. 143B-452 through G.S.

143B-467 or to the exercise of all or any of such authority and powers,

Nor shall the provisions of Chapter 146 abrogate or alter any otherwise valid contract or agreement heretofore made and entered into by the State of North Carolina or by any of its subdivisions or agencies during the term or period of such contract or agreement."

Sec. 53. G.S. 147-45 is amended by deleting "The University North Carolina System" and substituting "The University of North Carolina System."

Sec. 54. G.S. 150B-21.1(a) reads as rewritten:

"(a) Adoption. -- An agency may adopt a temporary rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical when it finds that adherence to the notice and hearing requirements of this Part would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

(1) A serious and unforeseen threat to the public health, safety, or welfare.
(2) The effective date of a recent act of the General Assembly or the United States Congress.
(3) A recent change in federal or State budgetary policy.
(4) A federal regulation.
(5) A court order.

An agency must prepare a written statement of its findings of need for a temporary rule. The statement must be signed by the head of the agency adopting the rule.

An agency must begin rule-making proceedings for a permanent rule by the day it adopts a temporary rule. An agency begins rule-making proceedings for a permanent rule by submitting to the ~~codifier~~ Codifier of Rules written notice of its intent to adopt a permanent rule."

Sec. 55. G.S. 159-30(b) reads as rewritten:

"(b) Moneys may be deposited at interest in any bank, savings and loan association, or trust company in this State in the form of certificates of deposit or such other forms of time deposit as the Commission may approve. Investment deposits, including investment deposits of ~~the~~ a mutual fund for local government investment ~~created by G.S. 159-30(c)(6a),~~ established under subdivision (c)(8) of this section, shall be secured as provided in G.S. 159-31(b)."

Sec. 56. G.S. 159G-8(a) reads as rewritten:

"(a) Application. -- All applications for revolving loans and grants for water supply systems shall be filed with the Division of Environmental Health and all applications for revolving loans and grants for wastewater treatment works or wastewater collection systems

shall be filed with the Environmental Management Commission. Any application may be filed in as many categories as it is eligible for consideration under this Chapter. Applications for revolving construction loans or grants for wastewater treatment works and wastewater collection systems, except applications for emergency wastewater loans, shall first be submitted for a loan or grant from the Water Pollution Control Revolving Fund established by G.S. 159G-5(c). If the application is denied, the application shall then be considered for a revolving loan or a grant from the General Wastewater Revolving Loan and Grant account established under G.S. ~~159-6(b)(1).~~ 159G-6(b)(1).

The Department of Environment, Health, and Natural Resources, the Commission for Health Services, and the Environmental Management Commission may develop jointly and adopt a standard form of application under this Chapter. Any application for construction grants under the Federal Water Pollution Control Act may be considered as an application for revolving construction loans or grants under G.S. 159G-5(c) and G.S. 159G-6(b)(1). The information required to be set forth in the application shall be sufficient to permit the respective agencies to determine the eligibility of the applicant and to establish the priority of the application, as set forth in this Chapter.

Any applicant shall furnish information in addition or supplemental to the information contained in its application upon request by the receiving agency."

Sec. 57. The catch line of G.S. 159I-29 reads as rewritten:

"*§ 159I-29. Annual reports to Joint Legislative Commission on ~~Government~~ Governmental Operations.*"

Sec. 58. The catch line of G.S. 160A-443 reads as rewritten:

"*§ 160A-443. Ordinance authorized as to repair, ~~closing~~ closing, and demolition; order of public officer.*"

Sec. 59. G.S. 160A-443(7) reads as rewritten:

"(7) If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the city to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned

according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing body pursuant to subdivision (5) authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing body has ordered the public officer to proceed to exercise his duties under ~~paragraphs~~ subdivisions 4 and 5 ~~[subdivisions 4 and 5]~~ of this section to vacate and close or remove and demolish the dwelling."

Sec. 60. G.S. 163-112(c) reads as rewritten:

"(c) Vacancy in Group Offices within 30 Days after the Filing Period Closes. -- If at the time the filing period closes more persons have filed notice of candidacy for nomination by a political party to an office constituting a group than there are positions to be filled, and a candidate or candidates ~~dies~~ die within 30 days after the filing period closes, and there remains only the number of candidates equal to or fewer than the number of positions to be filled, the appropriate board of elections shall reopen the filing period for that party contest, for three days for that office. Should no persons file during the three-day period, then those candidates already filed shall be certified as the party nominees for that office."

Sec. 61. G.S. 163-138 reads as rewritten:

"*§ 163-138. Instructions for printing names on primary and election ballots.*

In preparing primary, general, and special election ballots, the legal name of a candidate (together with his nickname in the situation outlined below) shall be printed precisely as it appears on the notice of candidacy form filed in accordance with G.S. 163-106 or in petition forms filed in accordance with G.S. 163-122. If the candidate has inserted a nickname on the notice of candidacy or in the petition, it shall be printed on the ballot immediately before the candidate's

surname and shall be enclosed by ~~parenthesis.~~ parentheses. Notwithstanding the previous sentence, if the candidate has used his nickname in lieu of first and middle names as permitted by G.S. 163-106(a), unless another candidate for the same office who files a notice of candidacy has the same last name, the nickname shall be printed on the ballot immediately before the candidate's surname but shall not be enclosed by parentheses. If another candidate for the same office who filed a notice of candidacy has the same last name, then the candidate's name shall be printed on the ballot in accordance with the alternate indicated by the candidate on his affidavit under G.S. 163-106(a). No title, appendage, or appellation indicating rank, status, or position, shall be printed before or following or as a nickname or in connection with the name of any candidate on any ballot. Nevertheless, a candidate who is a married woman may use the prefix 'Mrs.' and a candidate who is a single woman may use the prefix 'Miss' before her name if she so elects."

Sec. 62. G.S. 163-140(b)(4)c. reads as rewritten:

"c. You ~~make~~ may also vote a split ticket by marking a cross (X) mark in the party circle and then making a cross (X) mark in the square opposite the name of any candidate you choose of a different party. In any multi-seat race where a party circle is marked and you vote for candidates of another party, you must also make a cross (X) mark opposite the name of any candidate you choose of the party for which you marked the party circle to assure your vote will count."

Sec. 63. G.S. 163-140(b)(5)c. reads as rewritten:

"c. You ~~make~~ may also vote a split ticket by marking a cross (X) mark in the party circle and then making a cross (X) mark in the square opposite the name of any candidate you choose of a different party. In any multi-seat race where a party circle is marked and you vote for candidates of another party, you must also make a cross (X) mark opposite the name of any candidate you choose of the party for which you marked the party circle to assure your vote will count."

Sec. 64. G.S. 163-170(4) reads as rewritten:

"(4) When Voter Has Affixed Sticker, etc., or Otherwise Improperly Treated ~~Property~~ Properly Marked Ballot. -- If a voter has properly marked the voting square with pen or pencil, and also has affixed a sticker to a ballot, or marked a ballot with a rubber stamp, attached anything to a ballot, wrapped or folded anything in a ballot, or done anything to a ballot other than mark it properly with pen or pencil, it

shall be counted unless such action by the voter makes it impossible to determine the voter's choice."

Sec. 65. G.S. 163-192(b)(4) reads as rewritten:

"(4) For district court judges for the several district court ~~district~~ districts as defined in G.S. 7A-133 in the State."

Sec. 66. G.S. 163-201(c1)(4) reads as rewritten:

"(4) Mecklenburg County Tract 0044 Block 906F is shown on the computer database as part of OAK when it is in fact correctly shown on the Board of Elections map as part of Charlotte Pct. 16;".

Sec. 67. G.S. 163-230.1(a)(3) reads as rewritten:

"(3) A large envelope (similar to a No. 14 or larger manila envelope) in which the container-return envelope with the ballots may be returned and on which the affidavit provided by G.S. 163-229(b) shall be printed; and".

Sec. 67.1. Section 6 of Chapter 517 of the 1993 Session Laws is amended by deleting '50-13.9(a)', and substituting 'G.S. 50-13.9(a)'.

Sec. 67.2. Sections 4 and 5 of Chapter 521 of the 1993 Session Laws are amended by deleting '1993 Session Laws', and substituting '1991 Session Laws'."

Sec. 68. G.S. 163-275(17) reads as rewritten:

"(17) For any person, directly or indirectly, to misrepresent the law to the public through mass mailing or any other means of communication where the intent and the effect is to intimidate or ~~discourages~~ discourage potential voters from exercising their lawful right to vote."

Sec. 69. G.S. 163-278.19(e) reads as rewritten:

"(e) Notwithstanding the prohibitions specified in this Article and Article 22 of this Chapter, a political committee organized under provisions of this Article shall be entitled to receive and the corporation, business entity, labor union, professional association, or insurance company designated on the committee's organizational report as the parent entity of the employees or members who organized the committee is authorized to give reasonable administrative support that shall include, but not be limited to, record keeping, computer services, billings, mailings to members of the committee, and such other support as is reasonably necessary for the administration of the committee.

The approximate cost of any record keeping, computer services, billings, mailings, office supplies, and office space provided on a continuing basis shall be submitted to the committee, in writing, and the committee shall include that cost on the annual report required by G.S. ~~163-278.9(a) (e),~~ 163-278.9(a)(6). Also included in the report

shall be the approximate allocable portion of the compensation of any officer or employee of the corporation, business entity, labor union, professional association, or insurance company who has devoted more than thirty-five percent (35%) of his time during normal business hours of the corporation, business entity, labor union, professional association, or insurance company during the period covered by the required report. The approximate cost submitted by the parent corporation, business entity, labor union, professional association, or insurance company shall be entered on the committee's annual report as the final entry on its list of 'contributions' and a copy of the written approximate cost received by it shall be attached.

The administrative support given by a corporation, business entity, labor union, professional association, or insurance company shall be designated on the books of the corporation, business entity, labor union, professional association, or insurance company as such and may not be treated by it as a business deduction for State income tax purposes."

Sec. 70. G.S. 163-278.42(e)(1) reads as rewritten:

"(1) Radio, television, newspaper, and billboard advertising for and on behalf of a political party or ~~candidate;~~ candidate;".

Sec. 71. The first line of Section 1 of Chapter 267 of the 1991 Session Laws is amended by deleting the phrase "18B-1114.1(a)" and substituting the phrase "18B-1114.1".

Sec. 72. The second line of Section 1 of Chapter 88 of the 1993 Session Laws is amended by inserting the phrase "of Section 22" between "Subsection (e)" and "of Chapter 900".

Sec. 73. (a) Section 2 of Chapter 107 of the 1993 Session Laws reads as rewritten:

"Sec. 2. This act becomes effective October 1, 1993, and applies to claims filed ~~for causes of action arising~~ on or after that date."

(b) G.S. 7A-219 reads as rewritten:

"*§ 7A-219. Certain counterclaims; cross claims; third-party claims not permissible.*

No counterclaim, cross claim or third-party claim which would make the amount in controversy exceed ~~two thousand dollars ($2,000)~~ the jurisdictional amount established by G.S. 7A-210(1) is permissible in a small claim action assigned to a magistrate. No determination of fact or law in an assigned small claim action estops a party thereto in any subsequent action which, except for this section, might have been asserted under the Code of Civil Procedure as a counterclaim in the small claim action."

(c) G.S. 42-28 reads as rewritten:

"*§ 42-28. Summons issued by clerk.*

When the lessor or his assignee files a complaint pursuant to G.S. 42-26 or 42-27, and asks to be put in possession of the leased premises, the clerk of superior court shall issue a summons requiring the defendant to appear at a certain time and place not to exceed 10 days from the issuance of the summons to answer the complaint. The plaintiff may claim rent in arrears, and damages for the occupation of the premises since the cessation of the estate of the lessee, not to exceed ~~two thousand dollars ($2,000),~~ the jurisdictional amount established by G.S. 7A-210(1), but if he omits to make such claim, he shall not be prejudiced thereby in any other action for their recovery."

(d) G.S. 42-30 reads as rewritten:

"*§ 42-30. Judgment by confession or where plaintiff has proved case.*

The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if the plaintiff proves his case by a preponderance of the evidence, or the defendant admits the allegations of the complaint, the magistrate shall give judgment that the defendant be removed from, and the plaintiff be put in possession of, the demised premises; and if any rent or damages for the occupation of the premises after the cessation of the estate of the lessee, not exceeding ~~two thousand dollars ($2,000),~~ the jurisdictional amount established by G.S. 7A-210(1), be claimed in the oath of the plaintiff as due and unpaid, the magistrate shall inquire thereof, and give judgment as he may find the fact to be."

(e) Subsections (b) through (d) of this section become effective at the same time that Chapter 107 of the 1993 Session Laws becomes effective.

Sec. 74. Section 1 of Chapter 197, Session Laws of 1993, is amended by deleting "adding two new subsections", and substituting "adding a new subsection".

Sec. 75. Section 3 of Chapter 226 of the 1993 Session Laws is amended by deleting:

"Sec. 3. G.S. 58-57-15 reads as rewritten:

'(a) Credit Life Insurance. -- '" and substituting:

"Sec. 3. G.S. 58-57-15 reads as rewritten:

'*§ 58-57-15. Amount.*

(a) Credit Life Insurance. -- '".

Sec. 76. Section 2 of Chapter 277 of the 1993 Session Laws is amended by deleting "subdivsion", and substituting "subdivision".

Sec. 77. Section 3 of Chapter 368 of the 1993 Session Laws is amended by deleting "20-37.7(d)", and substituting "G.S. 20-37.7(d)".

Sec. 78. The catch line of G.S. 8-53.3, as amended by Section 2 of Chapter 375 of the 1993 Session Laws is amended by removing the underlining of the period.

Sec. 79. If House Bill 297, 1993 Session, is enacted, G.S. 113-154.1(j) as enacted by that act is amended by deleting "G.S. 113-52", and substituting "G.S. 113-152".

Sec. 79.1. If Senate Bill 14, 1993 Session, is enacted, Section 5(d) of that act is amended by deleting the phrase "for land acquisition" the first time that phrase appears.

Sec. 80. G.S. 143-215.31, as amended by Section 6 of Chapter 394 of the 1993 Session Laws is amended by:

(1) Deleting "stream flows" and substituting "streamflows";

(2) Deleting "stream flow" and substituting "streamflow"; and

(3) Deleting "stream bed" and substituting "streambed".

Sec. 80.1. Section 12 of Chapter 485 of the 1993 Session Laws is amended by deleting 'Senate Bill 1141, Chapter ____ of the 1993 Session Laws', and substituting "Chapter 443 of the 1993 Session Laws".

Sec. 81. G.S. 143-215.22H as rewritten by Section 1 of Chapter 344 of the 1993 Session Laws is amended by deleting "ground waters", and substituting "groundwaters".

Sec. 82. Section 1(5a) of Chapter 131 of the 1993 Session Laws is amended by changing the period at the end to a semicolon.

Sec. 83. (a) G.S. 55A-11-02, as added by Chapter 398 of the 1993 Session Laws, is amended by deleting "wholly-owned", and substituting "wholly owned".

(b) Section 1 of Chapter 398 of the 1993 Session Laws is amended by deleting the quotation marks at the end of G.S. 55A-15-32.

Sec. 83.1. Section 13 of Chapter 405 of the 1993 Session Laws reads as rewritten:

"Sec. 13. Tony Copeland of Wake County is appointed to the North Carolina Medical Database Commission for a term to expire June 30, ~~1993.~~ 1996. This is the categorical appointment for a representative of an employer of less than 200 employees in a business unrelated to health care."

Sec. 83.2. (a) Section 86(a)(2) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(2) How to incorporate all or part of the Principal's Executive Program into the ~~Educational~~ School Leadership Academy."

(b) Section 86(a)(3) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(3) A design for a governing board for the ~~Educational~~ School Leadership Academy composed of persons who have demonstrated a commitment to improving educational

leadership in the State including practicing school administrators and professors of schools of education."

(c) Section 86(a)(4) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(4) A charge to the governing board that ensures coordination between the ~~Educational~~ School Leadership Academy and the initial preparation programs."

(d) Section 86(a)(5) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(5) How the State Board of Education shall ensure that all school administrators be required to complete at least five of their 15 continuing education units for continued practice in the profession in ~~Educational~~ School Leadership Academy programs or in programs endorsed by the ~~Educational~~ School Leadership Academy's governing board."

Sec. 83.3. Section 141.(a) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 141. (a) There is created in the Department of Public Instruction the Task Force on Teacher Staff Development. The purpose of the Task Force shall be to develop a Teacher Academy Plan. The Task Force shall consist of ~~20~~ 21 members appointed as follows:

(1) The Superintendent of Public Instruction or the Superintendent's designee, who shall serve as Chair;

(2) One member of the State Board of Education appointed by the Chair of the State Board;

(3) One member of the Board of Governors of The University of North Carolina appointed by the Chair of the Board of Governors;

(4) The Director of the North Carolina Center for the Advancement of Teaching;

(5) Two deans of Schools of Education appointed by the President of The University of North Carolina;

(6) Four public school teachers appointed by the Speaker of the House of Representatives, one of whom teaches in preschool through grade 2, one of whom teaches in grades 3 through 5, one of whom teaches in grades 6 through 8, and one of whom teaches in grades 9 through 12;

(7) Four public school teachers appointed by the President Pro Tempore of the Senate, one of whom teaches in preschool through grade 2, one of whom teaches in grades 3 through 5, one of whom teaches in grades 6 through 8, and one of whom teaches in grades 9 through 12;

(7a) Two public school teachers appointed by the Governor;
(8) One superintendent of a local school administrative unit appointed by the Governor;
(9) Two public school principals appointed by the Governor; and
(10) One member of the Teacher Training Task Force appointed by the Chair of the State Board of Education.
(11) The President of the North Carolina Association of Independent Colleges and Universities, or a designee."

Sec. 84. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

H.B. 873 **CHAPTER 554**

AN ACT TO FULFILL THE INTENT OF THE INSURANCE EQUALITY STATUTE BY CORRECTING OMISSIONS IN THAT STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-50-30 reads as rewritten:

"§ *58-50-30. Discrimination forbidden; right to choose services of optometrist, podiatrist, dentist or chiropractor.*

Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by Articles 50 through 55 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of such policy, or in any other manner whatsoever, is prohibited.

Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for payment of or reimbursement for any service rendered in connection with a condition or complaint which is within the scope of practice of a duly licensed optometrist, or duly licensed podiatrist, or a duly licensed dentist, or a duly licensed chiropractor, or duly licensed practicing psychologist, the insured or other persons entitled to benefits under such policy shall be entitled to payment of or reimbursement for such services, whether such services be performed by a duly licensed physician or a duly licensed optometrist, or a duly licensed podiatrist, or a duly licensed ~~dentist~~ dentist, or a duly licensed chiropractor, or a duly licensed practicing psychologist, notwithstanding any provision contained in such policy. Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability which is within the scope of practice of a duly licensed physician, or a duly licensed optometrist, or a duly licensed podiatrist, or a duly licensed dentist, or

a duly licensed chiropractor, or a duly licensed practicing psychologist, the insured or other persons entitled to benefits under such policy shall be entitled to payment of or reimbursement for such disability whether such disability be certified by a duly licensed physician, or a duly licensed optometrist, or a duly licensed podiatrist, or a duly licensed dentist, or a duly licensed chiropractor, or a duly licensed practicing psychologist, notwithstanding any provisions contained in such policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of such services notwithstanding any provision to the contrary in any other statute.

Whenever any policy of insurance provides coverage for medically necessary treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of his practice as defined in G.S. 90-151 unless a comparable limitation is imposed on such medically necessary treatment if performed or authorized by any other duly licensed physician.

For the purposes of this section, a 'duly licensed practicing psychologist' shall be defined to only include a psychologist who is duly licensed or certified in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Providers in Psychology."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.B. 558 **CHAPTER 555**

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SENATE PRESIDENT PRO TEMPORE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the Senate President Pro Tempore; and

Whereas, the Senate President Pro Tempore has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Rodney D. Ballance, Jr., of Dare County is appointed to the Private Protective Services Board for a three-year term to expire on June 30, 1996. This is the categorical appointment of a licensee under G.S. 74C-4(b).

Sec. 2. Henson P. Barnes of Wayne County and Frank B. Holding, Jr., of Mecklenburg County are appointed to the North Carolina Air Cargo Airport Authority, each for a four-year term to expire on June 30, 1997. Charles A. Hayes of Guilford County is appointed to the North Carolina Air Cargo Airport Authority for a two-year term to expire on June 30, 1995.

Sec. 3. Linda Anderson of Orange County is appointed to the North Carolina Board of Electrolysis Examiners for a three-year term to begin on September 1, 1993, and expire on August 31, 1996.

Sec. 4. Jane Sharpe of Orange County is appointed to the Genetic Engineering Review Board to fill a vacancy for the remainder of a term that expires on June 30, 1995.

Sec. 5. Dr. Patricia Chamings of Guilford County is appointed to the North Carolina Center for Nursing Board of Directors for a three-year term to expire on June 30, 1996. This is the categorical appointment of a registered nurse under G.S. 90-171.71(a)(1).

Sec. 6. JoAnn Schoen of Moore County and Elizabeth Fearing of Dare County are appointed to the North Carolina Nursing Scholars Commission, each for a four-year term to expire on June 30, 1997. Wanda Boyette of Sampson County is appointed to the North Carolina Nursing Scholars Commission for a two-year term to expire on June 30, 1995.

Sec. 7. Philip Adams of Wayne County is appointed to the North Carolina State Board of Examiners for Fee-Based Practicing Pastoral Counselors for a four-year term to begin on October 1, 1993, and expire on September 30, 1997. This is the categorical appointment of a public member under G.S. 90-385(a)(3).

Sec. 8. Henry E. Faircloth of Sampson County is appointed to the Real Estate Appraisal Board for a three-year term to expire on June 30, 1996.

Sec. 9. Johnny Sutton of Richmond County, Jane Smith of Robeson County, and William W. Phipps of Columbus County are appointed to the Southeastern North Carolina Regional Economic Development Commission, each for a four-year term to expire on June 30, 1997. Danny Fore of Cumberland County and Jerry Munn of Brunswick County are appointed to the Southeastern North Carolina Regional Economic Development Commission, each for a two-year term to expire on June 30, 1995.

Sec. 10. Page Paterson of New Hanover County is appointed to the Acupuncture Licensing Board for a two-year term to expire on June 30, 1995. Mary Cissy Majebe of Buncombe County is appointed to the Acupuncture Licensing Board for a three-year term to expire on June 30, 1996.

Sec. 11. Mary Odom of Scotland County is appointed to the North Carolina Hazardous Waste Management Commission for a two-year term to expire on June 30, 1995.

Sec. 12. Senator Ted Kaplan of Forsyth County and Senator C. R. Edwards of Cumberland County are appointed to the Economic Development Board, each for a two-year term to expire on June 30, 1995. Senator David Hoyle of Gaston County and Senator Elaine Marshall of Harnett County are appointed to the Economic Development Board, each for a four-year term to expire on June 30, 1997.

Sec. 13. Jackie Fishman of Mecklenburg County is appointed to the North Carolina Principal Fellows Commission for a two-year term to expire on June 30, 1995.

Sec. 14. Terry Mitchell of Pasquotank County, Noble Dillard of Union County, Ruth Murphy of Orange County, and Gary Stepp of Cherokee County are appointed to the Commission on School Technology, each for a two-year term to expire on June 30, 1995.

Sec. 15. Wanda Proffit of Yancey County, Matthew Bacoate of Buncombe County, and Giles D. Beal, III, of Gaston County are appointed to the Western North Carolina Regional Economic Development Commission, each for a four-year term to expire on June 30, 1997. Juanita Dixon of Haywood County and David P. Huskins of McDowell County are appointed to the Western North Carolina Regional Economic Development Commission, each for a two-year term to expire on June 30, 1995.

Sec. 16. Unless otherwise specified, all appointments made by this act are for terms to begin upon ratification.

Sec. 17. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

CHAPTER 556

The bill bearing Chapter number 556 was recalled from enrolling prior to ratification at the end of the 1993 Regular Session. It will appear in the 1993 Session Laws, Second Session 1994.

CHAPTER 557

The bill bearing Chapter number 557 was recalled from enrolling prior to ratification at the end of the 1993 Regular Session. It will appear in the 1993 Session Laws, Second Session 1994.

H.B. 1008 **CHAPTER 558**

AN ACT TO MAKE IT A CLASS I FELONY TO POSSESS OR CARRY A FIREARM OR EXPLOSIVE ON EDUCATIONAL PROPERTY OR TO CAUSE, ENCOURAGE, OR AID A MINOR TO POSSESS OR CARRY A FIREARM OR EXPLOSIVE ON EDUCATIONAL PROPERTY, TO MAKE IT A MISDEMEANOR TO CAUSE, ENCOURAGE, OR AID A MINOR TO TAKE OR POSSESS OTHER TYPES OF WEAPONS ON EDUCATIONAL PROPERTY, TO MAKE IT A MISDEMEANOR TO FAIL TO STORE FIREARMS IN A REASONABLE MANNER FOR THE PROTECTION OF MINORS AND TO FAIL TO WARN A PERSON OF THIS LAW UPON THE SALE OR TRANSFER OF A FIREARM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-269.2 reads as rewritten:

"*§ 14-269.2. Weapons on campus or other educational property.*

~~It shall be unlawful for any person to possess, or carry, whether openly or concealed, any gun, rifle, pistol, dynamite cartridge, bomb, grenade, mine, powerful explosive as defined in G.S. 14-284.1, bowie knife, dirk, dagger, slungshot, leaded cane, switch-blade knife, blackjack, metallic knuckles or any other weapon of like kind, not used solely for instructional or school-sanctioned ceremonial purposes, in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field, or other property owned, used or operated by any board of education, school, college, or university board of trustees or directors for the administration of any public or private educational institution. For the purpose of this section a self-opening or switch-blade knife is defined as a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance, and the above phrase 'weapon of like kind' includes razors and razor blades (except solely for personal shaving) and any sharp pointed or edged instrument except unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance. This section shall not apply to the following persons: Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms or weapons, civil officers of the United States while in the discharge of their official duties, officers and soldiers of the militia and the national guard when called into actual service, officers of the State, or of any county, city, or town, charged with the execution of the laws of the State, when acting in the discharge of their official~~

~~duties, any pupils who are members of the Reserve Officer Training Corps and who are required to carry arms or weapons in the discharge of their official class duties, and any private police employed by the administration or board of trustees of any public or private institution of higher education when acting in the discharge of their duties.~~

~~Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished in the discretion of the court.~~

(a) The following definitions apply to this section:

(1) Educational property. -- Any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by any board of education, school, college, or university board of trustees, or directors for the administration of any public or private educational institution.

(2) Student. -- A person enrolled in a public or private school, college or university, or a person who has been suspended or expelled within the last five years from a public or private school, college or university, whether the person is an adult or a minor.

(3) Switchblade knife. -- A knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance.

(4) Weapon. -- Any device enumerated in subsection (b) or (d) of this section.

(b) It shall be a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1, on educational property. However, this subsection does not apply to a BB gun, air rifle, or air pistol.

(c) It shall be a Class I felony for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1, on educational property. However, this subsection does not apply to a BB gun, air rifle, or air pistol.

(d) It shall be a misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for

personal shaving), and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.

(e) It shall be a misdemeanor for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.

(f) Notwithstanding subsection (b) of this section it shall be a misdemeanor rather than a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, on educational property if:

(1) The person is not a student attending school on the educational property;

(2) The firearm is not concealed within the meaning of G.S. 14-269;

(3) The firearm is not loaded and is in a locked container, a locked vehicle, or a locked firearm rack which is on a motor vehicle; and

(4) The person does not brandish, exhibit, or display the firearm in any careless, angry, or threatening manner.

(g) This section shall not apply to:

(1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;

(2) Armed forces personnel, officers and soldiers of the militia and national guard, law enforcement personnel, and any private police employed by an educational institution, when acting in the discharge of their official duties; or

(3) Home schools as defined in G.S. 115C-563(a)."

Sec. 2. Chapter 14 of the General Statutes is amended by adding the following new sections:

"*§ 14-315.1. Storage of firearms to protect minors.*

(a) Any person who resides in the same premises as a minor, owns or possesses a firearm, and stores or leaves the firearm (i) in a condition that the firearm can be discharged and (ii) in a manner that the person knew or should have known that an unsupervised minor would be able to gain access to the firearm, is guilty of a

misdemeanor if a minor gains access to the firearm without the lawful permission of the minor's parents or a person having charge of the minor and the minor:

(1) Possesses it in violation of G.S. 14-269.2(b);

(2) Exhibits it in a public place in a careless, angry, or threatening manner;

(3) Causes personal injury or death with it not in self defense; or

(4) Uses it in the commission of a crime.

(b) Nothing in this section shall prohibit a person from carrying a firearm on his or her body, or placed in such close proximity that it can be used as easily and quickly as if carried on the body.

(c) This section shall not apply if the minor obtained the firearm as a result of an unlawful entry by any person.

(d) 'Minor' as used in this section means a person under 18 years of age who is not emancipated.

"*§ 14-315.2. Warning upon sale or transfer of firearm to protect minor.*

(a) Upon the retail commercial sale or transfer of any firearm, the seller or transferor shall deliver a written copy of G.S. 14-315.1 to the purchaser or transferee.

(b) Any retail or wholesale store, shop, or sales outlet that sells firearms shall conspicuously post at each purchase counter the following warning in block letters not less than one inch in height the phrase: 'IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM THAT CAN BE DISCHARGED IN A MANNER THAT A REASONABLE PERSON SHOULD KNOW IS ACCESSIBLE TO A MINOR.'

(c) A violation of subsection (a) or (b) of this section is a misdemeanor."

Sec. 3. This act becomes effective December 1, 1993, and applies to all offenses or acts of delinquency committed on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

CHAPTER 559

The bill bearing Chapter number 559 was recalled from enrolling prior to ratification at the end of the 1993 Regular Session. It will appear in the 1993 Session Laws, Second Session 1994.

CHAPTER 560

The bill bearing Chapter number 560 was recalled from enrolling prior to ratification at the end of the 1993 Regular Session. It will appear in the 1993 Session Laws, Second Session 1994.

S.B. 26

CHAPTER 561

AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART 1. INTRODUCTION

Section 1. The appropriations made by the 1993 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

PART 2. TITLE

Sec. 2. This act shall be known as "The Capital Improvements Appropriations Act of 1993".

PART 3. PROCEDURES FOR DISBURSEMENTS

Sec. 3. The appropriations made by the 1993 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 1993 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act.

PART 4. CAPITAL IMPROVEMENTS/GENERAL FUND

Sec. 4. Appropriations are made from the General Fund for the 1993-94 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

		1993-94
DEPARTMENT OF ADMINISTRATION		
1. Reserve for Repairs/Renovations - Planning Reserve for Old Education Building and Old Revenue Building		$1,000,000
2. State Veterans' Cemetery - Fort Bragg		
Requirements	$1,219,500	
Receipts - Federal	751,100	
State Appropriation		468,400
3. Reserve for Veterans' Home - State Share		3,000,000
4. GPAC Prison Facility Consolidation - Planning and Design		2,000,000
5. Western Government Center - Planning		1,000,000
6. Indian Cultural Center - Purchase of Land/ Redesign of Center for Site Specific		750,000
7. Government Complex Mall - Supplement		150,000
8. Public Telecommunications - Upgrade Satellite System		314,000
TOTAL - DEPARTMENT OF ADMINISTRATION		$8,682,400
DEPARTMENT OF AGRICULTURE		
1. Medical Waste Incinerators - Animal Labs		$712,900
2. Pesticide Storage Buildings - Research Stations and State Farms		399,200

3.	Shop and Equipment Storage Facility - Upper Mountain Research Station		
	Requirements	323,300	
	Timber Receipts	323,300	
	State Appropriation		0
4.	Dairy Milking Parlor - Umstead Research Station		
	Requirements	213,000	
	Timber Receipts	213,000	
	State Appropriation		0
5.	Shop/Storage - Horticultural Crops Research Station		
	Requirements	168,900	
	Timber Receipts	168,900	
	State Appropriation		0
6.	Western Agricultural Center - Covered Show Ring/ Parking Area/Construction of restrooms and showers and Development of N.C. Mountain Fair		2,580,000
7.	Tidewater Research Station - Greenhouse and Headhouse Construction		500,000
8.	Southeastern Farmers' Market and Agricultural Center Development		2,500,000
9.	Western Farmers Market - Truck Shed, Wholesale Buildings and WNCDA Office on State Property Site Development		697,415
10.	Triad Farmers' Market Development		4,400,000
11.	Eastern N.C. Agricultural Center Development		3,400,000
12.	Livestock Facility - Planning Funds		50,000
TOTAL - DEPARTMENT OF AGRICULTURE			$15,239,515

DEPARTMENT OF CORRECTION		
1.	Add Dayrooms - Odom Correctional Center	$381,500
2.	Water/Wastewater Improvements - Statewide	1,000,000
TOTAL - DEPARTMENT OF CORRECTION		$1,381,500

DEPARTMENT OF COMMUNITY COLLEGES		
1.	Regional Truck Driver Training Facility	$50,000
TOTAL - DEPARTMENT OF COMMUNITY COLLEGES		$50,000

DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY			
1.	National Guard Armory Replacement - Kinston		
	Requirements	3,897,700	
	Receipts - Federal	2,848,300	
	Receipts - Local	524,700	

State Appropriation	524,700
2. National Guard - Aerial Reserve Equipment for Emergency Support Missions	275,000
3. National Guard - Underground Storage Tank	71,400
TOTAL - DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY	$871,100

DEPARTMENT OF CULTURAL RESOURCES	
1. Museum of History - Core Exhibition Design and Construction	$5,424,100
2. Somerset Place State Historic Site - Development - Washington County	300,000
3. Museum of the Albemarle - Complete Design	1,000,000
4. Elizabeth II State Historic Site - Master Plan Implementation - Design	250,000
TOTAL - DEPARTMENT OF CULTURAL RESOURCES	$6,974,100

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES	
1. State Parks - Reserve for Construction Projects for Health, Safety, Access Improvements, and Land Acquisition	$2,100,000
2. Small Watershed Grants and Solid Waste Grants	1,680,000
3. Forestry - District and County Headquarters Buildings/Equipment Sheds (Scotland, Henderson, Mitchell, Graham, Wayne, Davidson, and Fayetteville)	1,448,100
4. Water Resources (Civil Works) - Reserve for Planning, Construction Projects, Operations and Maintenance Projects, and Feasibility Studies	7,908,000
5. Geological Survey Repository - Core Sample Storage Addition	434,600
6. Partnership for the Sounds - Matching Funds	846,000
7. Expansion - Aquariums - Planning	250,000
TOTAL - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES	$14,666,700

DEPARTMENT OF HUMAN RESOURCES	
1. Reserve - Life Safety/Certification Improvements - Statewide	$1,000,000
2. Dorothea Dix Hospital - Male Wing Completion	1,457,300

3. John Umstead Hospital - Sewer Plant Upgrade - Design 250,000
4. Eastern School for the Deaf - Student Activity/ Recreation complex - Design 250,000

TOTAL - DEPARTMENT OF HUMAN RESOURCES $2,957,300

DEPARTMENT OF JUSTICE

1. Justice Academy - B-Dorm Repairs and Equipment
   Requirements 321,800
   Receipts 321,800
   State Appropriation 0
2. SBI Lab - New Construction $18,600,000

TOTAL - DEPARTMENT OF JUSTICE $18,600,000

NORTH CAROLINA PORTS RAILWAY COMMISSION

1. Planning Funds - Replacement of Morehead Trestle 250,000

TOTAL - NORTH CAROLINA PORTS RAILWAY COMMISSION 250,000

OFFICE OF STATE CONTROLLER

1. State Telecommunications System - Communications Network Development $4,100,000

TOTAL - OFFICE OF STATE CONTROLLER $4,100,000

UNIVERSITY - BOARD OF GOVERNORS

1. North Carolina State University
   a. Centennial Center - State Match $5,000,000
   b. Renovations and Equipment for Dearstyne Building and Ricks Hall to Effect the Transfer of Agricultural Education Program to College of Agriculture and Life Science 200,000
2. Reserve for Advance Planning 3,250,000
3. University of North Carolina - Chapel Hill - Terrell Building Additions/Renovations for N.C. High School Athletic Association 400,000
4. North Carolina State University - Agricultural Program
   a. Horticultural Crops Research Station at Fletcher - Improvements 258,000
5. School of the Arts - Education Building for Film School 7,900,000
6. U.N.C. - Asheville - Land Purchase 2,000,000
7. North Carolina Arboretum Development 2,000,000
8. North Carolina Central University -

Biology and Biomedical Center	4,200,000
9. University of North Carolina - Public Television - Tower Stokes County	1,006,175
10. East Carolina University - State support for Renovation of Minges Coliseum	2,500,000
TOTAL - UNIVERSITY BOARD OF GOVERNORS	$28,714,175
TOTAL - CAPITAL IMPROVEMENTS - GENERAL FUND	$102,486,790

PART 5. CAPITAL IMPROVEMENTS/HIGHWAY FUND

Sec. 5. (a) There is appropriated from the Highway Fund for the 1993-94 fiscal year the listed funds for use of the Department of Transportation to provide for capital improvement projects according to the following schedule:

		1993-94
1. Upgrade facilities to meet the Americans With Disabilities Act Standards		$1,678,600
2. Replace the two elevators in the Highway Building in Raleigh		350,500
3. Acquire 20 acres of land in Garner for location of DOT warehouse		250,000
4. Renovate one floor of the Highway Building in Raleigh		400,000
TOTAL - DEPARTMENTWIDE		$2,679,100
DIVISION OF HIGHWAYS		
1. Replace roofs statewide		391,000
2. Construct traffic service facility - Town of Union (Hertford County)		818,000
3. Design a roadside environmental facility (office, warehouse, shed) in Sylva		31,000
4. Construct equipment shop in Sandy Ridge		717,000
5. Construct maintenance facility in Nashville		
Requirements	768,000	
Receipts	222,000	
State Appropriations		546,000
6. Construct equipment repair shop in Creswell		739,000
7. Construct equipment shop in Spindale		747,000
TOTAL - DIVISION OF HIGHWAYS		$3,989,000

DIVISION OF MOTOR VEHICLES	
1. Replace roofs statewide	76,100
2. Resurface six parking lots statewide	120,900
3. Renovate DMV Office Building in Durham	197,000
4. Renovate DMV Office Building in Salisbury	197,000
5. Renovate the Division of Motor Vehicles Building in Raleigh	1,677,000
TOTAL - DIVISION OF MOTOR VEHICLES	$2,268,000
HIGHWAY PATROL	
1. Replace underground storage tanks	$350,000
MAINTENANCE	
1. Increase Highway and Bridge Maintenance	$2,641,000
RESERVES	
1. Create a Reserve for Promotion and Development of International Air Service	$5,000,000
GRAND TOTAL HIGHWAY FUND	$16,927,100

(b) The Department of Transportation may begin the land purchase and design phases for a Division of Highways office complex in Winston-Salem. These phases shall be funded with any proceeds from the sale of land owned by the Department in Rowan County.

(c) The funds appropriated pursuant to the schedule in subsection (a) of this section for the Division of Highways for the construction of a maintenance facility in Nashville shall be supplemented by two hundred twenty-two thousand dollars ($222,000) received as proceeds from the sale of land owned by the Department of Transportation in Goldsboro, which sale proceeds shall be applied to the total project cost of seven hundred sixty-eight thousand dollars ($768,000).

PART 6. NONRECURRING APPROPRIATIONS/ GENERAL FUND

Sec. 6. Appropriations are made from the General Fund for the 1993-94 fiscal year for use by the State departments, institutions, and agencies to provide for one-time expenditures according to the following schedule:

	1993-94
DEPARTMENT OF ADMINISTRATION	
1. Domestic Violence Program - To Fully Fund all 67 Programs	$95,433
2. Displaced Homemakers Job Training Pilot Project	375,000
3. Funds to Provide for a State Government Disparity Study	950,000
TOTAL - ADMINISTRATION	$1,420,433
DEPARTMENT OF AGRICULTURE	
1. Farm Loan Reserve Funds for Agricultural Finance Authority	$1,000,000
2. Carrboro Farmers' Market Grant	236,000
3. Funds to Provide Mycotoxin Research	160,000
TOTAL - AGRICULTURE	$1,396,000
DEPARTMENT OF COMMERCE	
1. Rural Tourism Development Grants	$200,000
2. Center for Community Self-Help	1,000,000
3. World Trade Center	100,000
4. Investment in Manufacturing Technology - Match Federal Funds	1,000,000
5. Reserve for Economic Development Initiatives - Columbus and Stanly Counties	1,275,000
6. Institute for Minority Economic Development	350,000
TOTAL - COMMERCE	$3,925,000
DEPARTMENT OF COMMERCE - RURAL ECONOMIC DEVELOPMENT CENTER	
1. Rural Economic Development Act Implementation	$2,825,000
2. Economic Development Programs	
a. Grants to Community Development Corporations That Have Not Received State Funds	100,000
b. N.C. Community Development Initiatives, Inc. - Support for Mature CDC's; Will Leverage Additional $4 Million Foundation Funds	2,000,000
c. Continue Support for Community Development Corporations Previously State Funded	1,300,000
d. Microenterprise Loan Program	650,000
e. Rural Economic Development Center Administrative Cost	50,000

f. Community Development Housing Counseling Demonstration Project	150,000
g. Minority Credit Union Support Center	300,000
h. N.C. Association of Community Development Corporations	200,000
TOTAL - RURAL ECONOMIC DEVELOPMENT CENTER	$7,575,000

DEPARTMENT OF COMMERCE - BIOTECHNOLOGY CENTER

1. Fund Biotechnology Program for Public Historically Black Universities and Pembroke State University	$1,000,000
2. Supplement for Grant Programs - One-Time Grant	1,000,000
TOTAL - BIOTECHNOLOGY CENTER	$2,000,000

DEPARTMENT OF COMMERCE - MCNC

1. MCNC Reserve for Capital Needs and Communications	
a. Conduct a Joint Telecommunications Research and Development Project with MCI Corporation	$2,000,000
b. Purchase and Installation of Upgraded Equipment for the MCNC Supercomputer, the Telecommunications Network, and the Microelectronics Program	2,500,000
c. Funds to Connect the 6 Remaining State-Owned Campuses to the MCNC CONCERT Telecommunications Network (Pembroke State, ECSU,WCU, FSU, NCCU, UNC-G)	2,118,000
TOTAL - MCNC	$6,618,000

CONTINGENCY FUND

1. Support for Reimbursements to Local Boards of Elections for Expenses Incurred with Sale of Bond Elections	$1,000,000
TOTAL - CONTINGENCY FUND	$1,000,000

DEPARTMENT OF CULTURAL RESOURCES

1. Reserve for Grants To Local Historical And Cultural Organizations	$2,000,000
2. Andrew Jackson Memorial - Grant	100,000
3. The Lost Colony - Matching Funds	500,000
TOTAL - DEPARTMENT OF CULTURAL RESOURCES	$2,600,000

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES	
1. Reserve for Falls Lake Watershed Study	$150,000
2. Wildlife Resources Commission - Extend Beaver Control Pilot Program for One Year	146,000
3. Western North Carolina Genetic Center - Start-up Costs	355,000
4. Technical Assistance Grants of $100,000 Each to Richmond, Chatham, and Wake Counties for Their Site Designation Review Committee	300,000
TOTAL - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES	$951,000
GENERAL ASSEMBLY	
1. LRC's ($200,000) Independent Studies ($300,000)	$500,000
2. Reserve Increase	2,000,000
3. Courts Commission - Support for Staff, Travel	54,438
4. Swine Study	15,000
5. Study on Economic Incentives to Lure Industry	100,000
6. Reserve for GPAC Recommendations	1,076,163
TOTAL - GENERAL ASSEMBLY	$3,745,601
OFFICE OF THE GOVERNOR	
1. Housing Trust Fund	$ 2,500,000
2. Industrial Recruitment - Restricted Reserve for Automobile Manufacturing Company Relocation	35,000,000
TOTAL - OFFICE OF THE GOVERNOR	$37,500,000
DEPARTMENT OF HUMAN RESOURCES	
1. Medicaid Planning Funds - Funds to Support Planning and Design of the Eligibility Information System in the event of expanded coverage for the uninsured	$200,000
2. Senior Citizens' Funds - Funds for Senior Citizen Centers' Maintenance, Renovation, and Upkeep. Funds shall be allocated based on need. No Center shall receive more than $10,000	300,000
3. Headstart Funds - Funds for 5 additional Headstart Parent and Child Centers	1,100,000
4. Sheltered Workshops Capital Funds - Funds for Capital Needs at Community-Based	

Facilities that Operate Vocational Rehabilitation Services or Adult Developmental Activity Programs (ADAP). $76.28 Per Slot for 6,554 Slots. Each Program Shall Submit a Budget for These Funds for Approval to the Department of Human Resources	500,000
5. Governor Morehead School - Funds for Braille Textbooks and a Resource Center for Visually Impaired Children	300,000
6. Deaf Funds - Funds to Meet Critical Educational and Support Services Needs of Deaf Children and Adults	800,000
7. Child Care Resources - Funds to Develop Resources and Referral Service in Unserved and Underserved Counties and to Fund Existing Resources and Referral Services	500,000
8. Children Grant Funds - Funds to Provide Grants to Programs Serving Children-at-Risk and Child Care Capital Needs	200,000
9. TEACH Funds - Funds for the Teacher Education and Compensation Helps Early Childhood Project to Allow Child Day Care Teachers to Seek Continued Education	1,000,000
10. Community Volunteer Program for Parent Involvement - Funds to Support the Development of the Volunteer Program for Parent Involvement	100,000
11. Mental Health Facility Funds	2,000,000
TOTAL - DEPARTMENT OF HUMAN RESOURCES	$7,000,000
JUDICIAL DEPARTMENT	
1. Alamance Dispute Settlement Center - Expand Mediation into Schools	$5,000
2. Cumberland County Dispute Resolution Center - Pilot Project for Dispute Settlement for Students in Junior and Senior High Schools in Cumberland County	30,000
TOTAL - JUDICIAL DEPARTMENT	$35,000
DEPARTMENT OF JUSTICE	
1. Reserve for Litigation Expenses Related to Redistricting	$500,000
2. Grant Funds for the North Carolina Law Enforcement Officers' Hall of Honor	45,000
TOTAL - DEPARTMENT OF JUSTICE	$545,000

DEPARTMENT OF LABOR	
1. Reserve for Computerized Network	$750,000
TOTAL - DEPARTMENT OF LABOR	$750,000
PUBLIC EDUCATION	
1. Department of Public Instruction	
a. Advanced Placement - Pilot Program to Match Costs of Taking Advanced Placement Exams	$550,000
b. Cued Speech Center of Wake County for Transition Services	95,000
2. Aid to Local School Administrative Units	
a. Funds to Hold Ashe and Jackson County Schools Harmless in the Small School Formula	600,565
b. Education Technology Equipment for Libraries	5,000,000
TOTAL - PUBLIC EDUCATION	$6,245,565
DEPARTMENT OF SECRETARY OF STATE	
1. Business License Office - Computer System Development and Equipment	$350,000
TOTAL - SECRETARY OF STATE	$350,000
OFFICE OF STATE BUDGET AND MANAGEMENT	
1. Science and Math Alliance - Development	$800,000
2. Children's Home Society of N.C., Inc. - Grant to Establish an Adoption Resource Center	500,000
3. N. C. Future Farmers of America, Inc., - Matching Grant	300,000
4. Piedmont Triad Regional Water Authority Grant	500,000
5. Child Protective Services - Grant for Equipment	60,000
TOTAL - OFFICE OF STATE BUDGET AND MANAGEMENT	$2,160,000
OFFICE OF STATE CONTROLLER	
1. Reserve to Continue the Implementation of the State Accounting System	$4,200,000
TOTAL OFFICE OF STATE CONTROLLER	$4,200,000
DEPARTMENT OF TRANSPORTATION	
1. North Carolina Global TransPark	

Development Zone - Development of Infrastructure	$7,500,000
TOTAL - DEPARTMENT OF TRANSPORTATION	$7,500,000
UNIVERSITY - BOARD OF GOVERNORS	
1. North Carolina State University - To Study the Abatement of Odors from Swine Farms and the Impact of Swine Farms on Ground and Surface Water Supplies	$85,000
2. North Carolina A&T - One-Time Funds for Agricultural Research and Extension Development, Including Matching Funds for Federal Grants	500,000
3. University of North Carolina at Chapel Hill - Funds to Support the Bicentennial Observance	250,000
4. UNC-Chapel Hill - One-Time Funds for Work of Educational Consortium	150,000
5. UNC-Chapel Hill - One-Time Funds to Infectious Disease Control Program in School of Medicine to Assist Health Facilities with Training of Disease Control Coordinators	75,000
6. North Carolina State University- One-Time Funds for Expansion of Turfgrass Research	250,000
7. Fayetteville State University - One-Time Funds for Process Leadership Training Program	50,000
8. Teacher Training Task Force	10,000
9. Freshmen Scholars Program at Five Campuses	1,000,000
10. Board of Governors - Planning Grant for Reopening of Chinqua-Penn Plantation	75,000
11. North Carolina A & T - State Support for the Applied Manufacturing and Education Center	3,500,000
12. North Carolina State University - To Study Alternative Disposal Systems for Residential Sewage in Those Parts of the State Where Soil Absorption Qualities Are Poor	50,000
13. Winston-Salem State University- State Support for the Cooperative Effort of North Carolina A & T, UNC-Greensboro, North Carolina State University in the Establishment of Research Parks in the Winston-Salem Area	3,026,000
TOTAL - UNIVERSITY - BOARD OF GOVERNORS	$9,021,000

TOTAL NONRECURRING - GENERAL FUND $106,537,599

PART 7. GENERAL PROVISIONS
Requested by: Representatives Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan
HIGHWAY FUND AVAILABILITY INCREASE

Sec. 7. Section 18 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 18. The Highway Fund appropriations availability used in developing the 1993-95 Highway Fund budget is shown below:

	($Million) 1993-94	($Million) 1994-95
Beginning Credit Balance	$ ~~9.03~~ 21.03	-
Estimated Revenues:	944.6	$ 961.3
Transfer from Equipment Fund	10.0	-
Transfer to Highway Trust Fund	-	(9.6)
Total Highway Fund Availability	~~$963.63~~ 975.63	$951.7."

Requested by: Representatives Nesbitt and Diamont
BUDGET REFORM STATEMENTS

Sec. 8. (a) Section 17 of Chapter 321 of the 1993 Session Laws is repealed.

(b) The General Fund and availability used in developing the 1993-95 budget is as shown below:

(1) Composition of the 1993-94 beginning availability:

a. Revenues collection in 1992-93 in excess of authorized estimates	$201,740,000
b. Unexpended appropriations during 1992-93 (reversions)	171,190,000
c. Disproportionate share payments received in 1992-93	
Subtotal	158,680,000
	$531,610,000
d. Transfer to Savings Reserve	132,902,500
e. Transfer to Reserve for Repair and Renovations	57,000,000
Ending Fund Balance	$341,707,500

	1993-94	1994-95
(2) Beginning Unrestricted Fund Balance	$ 341,707,500	-
Revenues Existing Tax Structure	$8,649,700,000	$9,212,100,000
Changes:		
1. Accelerated Growth with Implementation of GPAC recommendation	5,400,000	5,400,000
2. Retain in General Fund interest previously paid to Highway Trust Fund (G.S. 105-187.9(b))	7,000,000	7,000,000
3. Increase Court Fees	5,900,000	5,900,000
5. Transfer from Department of Insurance Fund	(474,580)	(1,132,000)
6. Treasurer's Banking Fees/Local Government Operation	634,300	1,106,000
7. Disproportionate Share Receipts	93,200,000	-
8. Highway Fund Transfer Reduction Related to Sales Tax Exemption	(200,000)	(200,000)
9. Transfer from Savings Reserve	121,000,000	-
10. Transfer from DHR Private Hospital Donation Fund	10,000,000	-
11. Cotton Promotion Transfer	600,000	-
Total Changes	243,059,720	18,074,000
Revised Revenues	8,892,759,720	9,230,174,000
Total Availability	9,234,464,220	9,230,174,000

Revenue Growth Rates:		
Economic Basis	6.2%	6.5%
Less Impact of Special Factors	.9%	-2.6%
Actual Basis	7.1%	3.9%

(3) Estimate of Disproportionate Share Receipts to be deposited as a nontax revenue and reserved by the State Controller:
1993-94 $114,200,000.

Requested by: Representatives Diamont, Nesbitt, Senators Daniel, Plyler, Kaplan

CASWELL COUNTY COMMUNICATIONS TOWER FUNDS SHALL BE USED FOR AN EMERGENCY MANAGEMENT BUILDING

Sec. 9. The following funds, which were appropriated in prior fiscal years, shall be used by Caswell County to house 911 communications equipment:

(1) The sum of ten thousand dollars ($10,000), which was appropriated to Caswell County in Paragraph S1435 of Section 6 of Chapter 830 of the 1987 Session Laws to purchase an emergency services communications tower;
(2) The sum of two thousand dollars ($2,000), which was appropriated to Caswell County in Paragraph H2600 of Section 1 of Chapter 1085 of the 1987 Session Laws for a central communications tower;
(3) The sum of eight thousand dollars ($8,000), which was appropriated to Caswell County in Paragraph H2642 of Section 1 of Chapter 1085 of the 1987 Session Laws to purchase a central communications tower;
(4) The sum of seventeen thousand dollars ($17,000), which was appropriated to Caswell County in Paragraph S1770 of Section 1 of Chapter 1094 of the 1987 Session Laws for the purchase and construction of a communications tower and system for use in law enforcement, fire protection, and emergency services.

The 911 communications equipment may be used to construct a facility that is used for other purposes so long as these funds are used only for that portion of the facility that houses the 911 communications equipment.

PART 8. TECHNICAL CORRECTIONS

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

TECHNICAL CORRECTIONS/CHAPTER 321-CURRENT OPERATIONS APPROPRIATIONS ACT OF 1993, AND OTHER ACTS.

Sec. 10. *MEDICAL SCHOOL ASSISTANCE FUNDING*

Section 78(b) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(b) The Board of Governors of The University of North Carolina shall set goals for the Schools of Medicine at the University of North Carolina at Chapel Hill and the School of Medicine at East Carolina University for increasing the percentage of graduates who enter residencies and careers in primary care. A minimum goal should be at least fifty percent (50%) of graduates entering primary care disciplines. Each school shall submit a plan with strategies to reach these goals of increasing the number of graduates entering primary care disciplines to the Board by April 15, 1994. The Board of Governors shall report to the Joint Legislative Education Oversight Committee by May 15, 1994, on the status of these efforts to strengthen primary health care in North Carolina.

Primary care shall include the disciplines of ~~family,~~ family medicine, general pediatric medicine, general internal medicine, internal medicine/pediatrics, and obstetrics/gynecology."

Sec. 11. *UNC LIBRARIES FUNDING*

Section 91 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 91. Of the funds appropriated in this act to the Board of Governors of The University of North Carolina for Institutional Programs, the Board of Governors shall allocate at least eleven million eighty-four thousand dollars ($11,084,000) for the 1993-94 fiscal year and at least two million six hundred five thousand six hundred seventy-seven dollars ($2,605,677) for the 1994-95 fiscal year for Lines 2 and 4 of the Schedule of Priorities, to enhance library networks and library operations."

Sec. 12. *ECONOMIC DEVELOPMENT BOARD*

G.S. 143B-434(b) as rewritten by Section 313(a) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(b) Membership. -- The Economic Development Board shall consist of 36 members. The Secretary of Commerce shall serve ex officio as a member and as the secretary of the Economic Development Board. Four members of the House of Representatives appointed by the ~~General Assembly upon the recommendation of the~~ Speaker of the House of Representatives, four members of the Senate appointed by the ~~General Assembly upon the recommendation of the~~ President Pro Tempore of the Senate, the President of The University of North Carolina, or designee, the President of the North Carolina

Community College System, or designee, the Secretary of State, and the Lieutenant Governor, shall serve as members of the Board. The Governor shall appoint the remaining 23 members of the Board, provided that effective with the terms beginning July 1, 1997, one of those appointees shall be a representative of a nonprofit organization involved in economic development and two of those appointees shall be county economic development representatives. The Governor shall designate a chair and a vice-chair from among the members of the Board. Appointments to the Board made by the Governor for terms beginning July 1, 1997, and appointments to the Board made by the ~~General Assembly~~ Speaker of the House of Representatives and the President Pro Tempore of the Senate for terms beginning July ~~1,~~ 9, 1993, should reflect the ethnic and gender diversity of the State as nearly as practical.

The initial appointments to the Board shall be for terms beginning on ~~the date of ratification of the Current Operations Appropriations Act of 1993.~~ July 9, 1993. Of the initial appointments made by the Governor, the terms shall expire July 1, 1997. Of the initial appointments made by the ~~General Assembly, two terms made upon the recommendation of the~~ Speaker of the House of Representatives and ~~two terms made upon the recommendation of~~ by the President Pro Tempore of the Senate two appointments of each shall be designated to expire on July 1, 1995; the remaining terms shall expire July 1, 1997. Thereafter, all appointments shall be for a term of four years.

The ~~Governor~~ appointing officer shall make a replacement appointment to serve for the unexpired term in the case of a ~~vacancy, provided that a vacancy in a term appointed by the General Assembly shall be filled in accordance with G.S. 120-122,~~ vacancy.

The members of the Economic Development Board shall receive per diem and necessary travel and subsistence expenses payable to members of State Boards and agencies generally pursuant to G.S. 138-5 and 138-6, as the case may be. The members of the Economic Development Board who are members of the General Assembly shall not receive per diem but shall receive necessary travel and subsistence expenses at rates prescribed by G.S. 120-3.1."

Sec. 13. *EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES*

Section 254(b) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(b) Of the funds appropriated to the Department of Human Resources, the sum of twenty million dollars ($20,000,000) for the 1993-94 fiscal year and the sum of ~~twenty-eight million four hundred forty thousand dollars ($28,440,000)~~ twenty-seven million six hundred forty thousand dollars ($27,640,000) for the 1994-95 fiscal year to

implement subsection (a) of this section. From the funds appropriated by this subsection, the Department shall provide funds for services prescribed in subsection (a) of this section, for necessary State, regional, and local administration of this Part, and for the activities of the North Carolina Partnership for Children, Inc., consistent with the provisions of subsection (a) of this section."

Sec. 14. *CHILD PROTECTIVE SERVICES*

Section 234(a) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(a) Funds appropriated to the Division of Social Services, Department of Human Resources, in this act for Child Protective Services shall be allocated for the 1993-94 fiscal year and for the 1994-95 fiscal year as follows:

(1) Each county department of social services shall receive an amount based on a formula that takes into consideration the number of Child Protective Services cases in that county and the number of Child Protective Services workers required to meet a ratio of no more than 20 active cases per one Child Protective Services worker. The allocation of these funds to each county shall not be less than that county's allocation in the 1992-93 fiscal year unless the General Assembly appropriates less funds for the 1993-94 fiscal year and the 1994-95 fiscal year for Child Protective Services than it appropriated in the 1992-93 fiscal year; and

(2) Each county department of social services shall receive a portion of the remainder of these funds, if any, on a proportional basis determined by the amount of funds necessary in that county to enable that county to achieve the caseload prescribed in subdivision (1) of this subsection. Counties that have achieved the caseload ratios prescribed by subdivision (1) of this section ~~pursuant to funds allocated in that subdivision~~ in either the 1993-94 fiscal year or the 1994-95 fiscal year shall not receive any funds pursuant to this subdivision in that fiscal year."

Sec. 15. *JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES*

G.S. 120-70.91, as enacted by Section 259 of Chapter 321 of the 1993 Session Laws, reads as rewritten:

"*§ 120-70.91. Purpose and powers of Committee.*

(a) The Committee shall examine, on a continuing basis, the Early Childhood Education and Development Initiatives established by Section 254 of ~~this act,~~ Chapter 321 of the 1993 Session Laws, in order to make ongoing recommendations to the General Assembly on ways to improve the provision of these programs and services. In this

examination, the Committee shall study the budgets, programs, and policies of the 12 local projects, their development and implementation by the North Carolina Partnership for Children, Inc., and their oversight by the Department of Human Resources, to determine whether to recommend that the General Assembly should continue the Initiatives, expand them, or make them statewide and, if the Initiatives are continued, expanded, or made statewide, continue to study the budgets, programs, and policies of the Initiatives, their continued development and their oversight, to determine how to enable the Initiatives to provide the best, most cost-effective, and most equitable early childhood education and development services within the scope of the Initiatives' services and programs.

(b) At the same times and intervals the Department reports to the General Assembly pursuant to Section 257 of ~~this act,~~ Chapter 321 of the 1993 Session Laws, the Department shall report to the Committee on the implementation of the Initiatives. After the final report presented pursuant to Section 257, the Department shall continue to report to the Committee every three months. If the Initiatives are discontinued, the Committee terminates.

(c) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee."

Sec. 16. *REPAIRS AND RENOVATIONS RESERVE ACCOUNT*

G.S. 143-15.3A(b), as enacted by Section 17.1(b) of Chapter 321 of the 1993 Session Laws, reads as rewritten:

"(b) The funds in the Repairs and Renovations Reserve Account shall be used only for the repair and renovation of State ~~buildings~~ facilities and related infrastructure that are supported from the General Fund. The Director of the Budget shall not use funds in the Repairs and Renovations Reserve Account unless the use has been approved by an act of the General Assembly."

Sec. 17. *INITIAL MEETINGS OF REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS*

(a) G.S. 158-8.1, as added by Section 309 of Chapter 321 of the 1993 Session Laws, is amended by adding a new subsection to read:

"(c1) The initial meeting shall be called by the Secretary of the Department of Commerce."

(b) G.S. 158-8.2, as added by Section 309.1 of Chapter 321 of the 1993 Session Laws, is amended by adding a new subsection to read:

"(d1) The initial meeting shall be called by the Secretary of the Department of Commerce."

(c) G.S. 158-8.3, as added by Section 309.2 of Chapter 321 of the 1993 Session Laws, is amended by adding a new subsection to read:

"(c1) The initial meeting shall be called by the Secretary of the Department of Commerce."

Sec. 18. *SICK LEAVE CONVERSION TECHNICAL CORRECTION*

(a) G.S. 126-8, as rewritten by Section 73(f) of Chapter 321 of the 1993 Session Laws, reads as rewritten:

"*§ 126-8. Minimum leave granted State employees.*

The amount of vacation leave granted to each full-time State employee subject to the provisions of this Chapter shall be determined in accordance with a graduated scale established by the State Personnel Commission which shall allow the equivalent rate of not less than two weeks' vacation per calendar year, prorated monthly, cumulative to at least 30 days. ~~Any~~ On December 31 of each year, any State employee who has vacation leave in excess of the allowed accumulation shall have that leave converted to sick leave. Sick leave allowed as needed to such State employees shall be at a rate not less than 10 days for each calendar year, cumulative from year to year. Notwithstanding any other provisions of this section, no full-time State employee subject to the provisions of Chapter 126, as the same appears in the Cumulative Supplement to Volume 3B of the General Statutes, on May 23, 1973, shall be allowed less than the equivalent of three weeks' vacation per calendar year, cumulative to at least 30 days."

(b) This section becomes effective June 30, 1993.

Sec. 19. *SCHOOL-BASED ADMINISTRATOR SALARIES*

Section 132(e) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(e) Notwithstanding any other provision of this section, the certified base salary of a principal or assistant principal shall not increase less than one percent (1%) or more than three percent (3%) as a result of placement on the salary schedule in accordance with this section. If placement on a grade and step of the salary schedule in accordance with this section would result in a principal or assistant principal receiving a salary increase of from one percent (1%) to three percent (3%), the principal or assistant principal shall be placed on a grade and step of the salary schedule in accordance with this section. If placement on a grade and step of the salary schedule in accordance with this section would result in a principal or assistant principal receiving a salary increase of less than one percent (1%), the principal or assistant principal shall be placed on the lowest grade and step with a salary that is at least a one percent (1%) salary increase for the

principal or assistant principal. If placement on a grade and step of the salary schedule in accordance with this section would result in a principal or assistant principal receiving a salary increase of more than three percent (3%), the principal or assistant principal shall be placed on the ~~lowest~~ highest grade and step with a salary that is ~~at least~~ not more than a three percent (3%) salary increase for the principal or assistant principal."

PART 9. GENERAL ASSEMBLY
Requested by: Representatives Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan
GPAC RECOMMENDATIONS

Sec. 20. In applying G.S. 143-16.3, bills implementing recommendations of the Government Performance Audit Committee shall not be considered.

Requested by: Representatives Wainwright, Crawford, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan
FISCAL NOTE REQUIREMENT AMENDED

Sec. 21. G.S. 120-36.7(c) reads as rewritten:

"(c) Proposed New Programs. -- Upon the request of a member of the General Assembly, the Fiscal Research Division shall prepare a fiscal analysis of proposed legislation to create a new State program. The analysis shall identify and estimate all personnel costs of the proposed new program for the first five fiscal years it will operate. The analysis shall also include a five-year estimate of space requirements, an indication of whether those requirements can be satisfied using existing State-owned facilities, and estimated costs of occupying leased space where State-owned space is not available."

PART 10. OFFICE OF STATE BUDGET AND MANAGEMENT
Requested by: Representatives Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan
EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND RENOVATIONS

Sec. 22. Of the funds in the Reserve for Repairs and Renovations for the 1993-94 fiscal year, fifty-five percent (55%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations to General Fund supported facilities and related infrastructure in The University of North Carolina, including the North Carolina School of Science and Math, and forty-five percent (45%) shall be allocated to the Office of State Budget and Management for necessary repairs and renovations to all other General Fund supported facilities and related infrastructure.

From this Reserve the Board of Governors may expend thirty-one million three hundred fifty thousand dollars ($31,350,000), and the Office of State Budget and Management may expend twenty-five million six hundred fifty thousand dollars ($25,650,000) for repairs and renovation, improvements to roads and walks, architectural barrier removal, and North Carolina Occupational Safety and Health Act projects.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall submit to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, for their review, the proposed allocation of these funds. Subsequent changes in the proposed allocations shall be reported prior to expenditure to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

RENOVATION OF BUTLER HALL AT ELIZABETH CITY STATE UNIVERSITY

Sec. 22.1. Of the funds in the Reserve for Repairs and Renovations for the 1993-94 fiscal year that are allocated to the Board of Governors of The University of North Carolina, the Board of Governors shall allocate at least two million six thousand one hundred seventy-five dollars ($2,006,175) for the renovation of Butler Hall at Elizabeth City State University.

Requested by: Representatives Gottovi, DeVane, Bowman, Senators Daniel, Plyler, Kaplan

LOCAL WATER/SEWER FUNDS

Sec. 23. (a) Notwithstanding the provisions of Section 3 of Chapter 321 of the 1993 Session Laws, the Office of State Budget and Management shall transfer from the funds appropriated to the Reserve for Local Government Shared Tax Revenue for the 1993-94 fiscal year, to the Clean Water Revolving Loan and Grant Fund created in G.S. 159G-5, the amount necessary to match for the 1993-94 fiscal year the federal wastewater or water supply assistance funds deposited

in the Clean Water Pollution Control Revolving Fund or another fund. The amount transferred pursuant to this subsection shall not, however, exceed the sum of six million eight hundred thousand dollars ($6,800,000).

(b) Notwithstanding the provisions of G.S. 105-116, the Secretary of Revenue shall reduce the amount to be transferred to municipalities on or before December 15, 1993, pursuant to G.S. 105-116(d), by an amount equal to sixty-five percent (65%) of the amount to be transferred pursuant to subsection (a) of this section. The Secretary of Revenue shall allocate this reduction on a pro rata basis among the municipalities entitled to receive a quarterly installment pursuant to G.S. 105-116(d) on or before December 15, 1993.

(c) Notwithstanding the provisions of G.S. 105-113.82, the Secretary of Revenue shall reduce the amount to be distributed to counties and cities for the 1993-94 fiscal year pursuant to G.S. 105-113.82 by an amount equal to thirty-five percent (35%) of the amount to be transferred pursuant to subsection (a) of this section. The Secretary of Revenue shall allocate this reduction on a pro rata basis among the counties and cities entitled to receive a distribution pursuant to G.S. 105-113.82 for the 1993-94 fiscal year.

(d) The General Assembly finds that the purpose of the allocation provided in this section is to meet the funding needs of local governments for water supply and wastewater treatment facilities, as requested by local governmental units.

(e) This section becomes effective only if:

(1) Senate Bill 14, which provides in part that a portion of the water and sewer bond proceeds may be used to make the match provided for in this section is not ratified in the 1993 Regular Session; or

(2) Senate Bill 14 is ratified in the 1993 Regular Session but, after the election to be held in November 1993, the State Board of Elections certifies that a majority of those voting on the question of the issuance of water and sewer bonds in the election did not vote in favor of the issuance of the bonds.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

RESERVE FOR GPAC RECOMMENDATIONS

Sec. 24. Funds appropriated in this act to the Reserve for GPAC Recommendations shall be used to implement GPAC recommendations related to the following:

(1) Program budget and evaluation;

(2) Personnel classification and compensation;

(3) Personnel policy; and
(4) Legislative peer review, classification, and compensation.

Requested by: Representatives Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan
CONTINGENCY FUND FOR BOND ELECTION EXPENSES ONLY

Sec. 25. The funds appropriated to the Contingency and Emergency Fund by this act shall be used only to reimburse the counties for the necessary expenses of conducting the election called by Senate Bill 14 of the 1993 Session, as provided by that bill.

Requested by: Representatives Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan
UNOBLIGATED BALANCE OF CERTAIN FUNDS TRANSFERRED

Sec. 26. (a) The unobligated balance of funds received pursuant to G.S. 143-23.2, prescribing transfers to the Department of Human Resources, on hand as of the end of the 1992-93 fiscal year shall be transferred to the State Treasurer to be deposited as a nontax revenue.

(b) This section becomes effective June 30, 1993.

PART 10.1. OFFICE OF THE GOVERNOR
Requested by: Representatives Nesbitt, Diamont, Bowman, DeVane, Senators Daniel, Plyler, Kaplan
AUTOMOBILE MANUFACTURING FACILITY FUNDS

Sec. 27. (a) The thirty-five million dollars ($35,000,000) in nonrecurring State funds appropriated in this act from the General Fund to the Office of the Governor for the 1993-94 fiscal year shall be placed in a Restricted Reserve for Automobile Manufacturing Company Relocation. Funds from the restricted reserve shall be expended only for purposes directly related to the recruitment, relocation, and retention in North Carolina of a facility for the manufacture and assembly of automobiles by a major automobile manufacturing company. Funds from the restricted reserve shall not be expended until the following conditions have been fully satisfied:

(1) The Governor has prepared and submitted to the Joint Legislative Commission on Governmental Operations, for its review, an implementation plan detailing the major activities and costs involved in recruiting, relocating, and retaining a major facility for the manufacture and assembly of automobiles in North Carolina. These activities may include plans for providing advanced skills training in automobile

manufacturing technology to North Carolina's work force. The implementation plan shall also indicate the status of relocation efforts and level of commitment by a major automobile manufacturing company to construct a new automobile manufacturing facility in North Carolina, and shall provide the information required under subsection (b) of this section; and

(2) The Governor has received a written, legally binding commitment from a major automobile manufacturing company that the company will construct and operate a major facility for the manufacture and assembly of automobiles in North Carolina.

(b) In addition to the information required under subsection (a)(1) of this section, the Governor's implementation plan shall include the following:

(1) Anticipated number and type of jobs to be created in North Carolina, including number of jobs created for residents of North Carolina, by operation of the automobile manufacturing and assembly facility;

(2) Information on proposed advanced skills training that will be available to North Carolina workers, including proposed curriculum and costs and benefits of advanced skills training;

(3) The long-range recurring and nonrecurring costs to the State associated with the operation of the automobile manufacturing facility and with advanced skills training over a five-year period beginning in 1994-95; and

(4) Information on the involvement of the community college system in providing advanced skills training and skilled workers for the automobile manufacturing facility.

(c) The Office of the Governor shall provide quarterly reports beginning with the first quarter subsequent to submission of the Governor's implementation plan required under this section, on the status and activities associated with the recruitment, relocation, and retention of the automobile manufacturing facility. These quarterly reports shall be provided to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Education Oversight Committee, and shall include all of the information required under subsections (a) and (b) of this section as well as the amount of funds expended from the restricted reserve and the purposes for which the funds have been expended.

(d) No commitment shall be made which obligates the State to appropriate funds for recurring expenditures related to the

recruitment, relocation, and retention of the automobile manufacturing facility and related training and recruitment activities.

(e) If all of the conditions specified under subsection (a) of this section have not been fully satisfied by June 30, 1994, then funds in the restricted reserve shall revert to the General Fund on that date.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

GOVERNOR'S OFFICE ECONOMIC INITIATIVES

Sec. 28. For the 1993-94 fiscal year only, the provisions of G.S. 143-16.3 do not apply to the following programs in the Office of the Governor:

(1) The Total Quality Management Program,

(2) The Governor's Executive Institute, and

(3) The Economic Development Institute.

PART 11. DEPARTMENT OF ADMINISTRATION

Requested by: Representatives Black, Rogers, Daniel, Plyler, Kaplan

EVALUATION OF DESIGN AND CONTRACT WORK FOR COMMUNITY COLLEGE BUILDINGS

Sec. 29. G.S. 143-135.26(4) reads as rewritten:

"(4) To develop procedures for evaluating the work performed by designers and contractors on State capital improvement projects and those community college buildings, as defined in G.S. 143-336, requiring the estimated expenditure for construction or repair work for which public bidding is required under G.S. 143-129, and for use of the evaluations as a factor affecting designer selections and determining qualification of contractors to bid on State capital improvement ~~projects.~~ projects and community college buildings."

Requested by: Representatives Nesbitt, Diamont, Wainwright, Crawford, Easterling, Holt, Senators Plexico, Daniel, Plyler, Kaplan

DOMESTIC VIOLENCE CENTER FUNDS

Sec. 30. Section 31 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 31. The funds appropriated ~~in this act~~ to the Department of Administration, the North Carolina Council for Women, for the 1993-94 fiscal year and for the 1994-95 fiscal year for domestic violence centers shall be allocated equally among domestic violence centers in operation on July 1, ~~1990,~~ 1993, that offer services including a hotline, transportation services, community education programs, daytime services, and call forwarding during the night and that fulfill

other criteria established by the Department of Administration. Grants shall be awarded based on criteria established by the Department of Administration and disbursed on a quarterly basis. The North Carolina Coalition against Domestic Violence, Incorporated, is eligible for a grant of ten thousand dollars ($10,000) under this section."

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont, Wainwright, Crawford,
STATE VETERANS HOME

Sec. 31. (a) It is the intent of the General Assembly that no State funds shall be appropriated in future years to support operational costs of the State Veterans Home in Fayetteville.

(b) Funds appropriated in this act for the State Veterans Home in Fayetteville shall be used to construct at least 150 beds at the facility. It is the intent of the General Assembly that this appropriation be the complete appropriation for this facility and that no additional State capital funds be appropriated.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont
LEGISLATIVE REVIEW REQUIRED FOR CERTAIN CONVEYANCES OF STATE LAND

Sec. 32. (a) G.S. 146-27 reads as rewritten:

"*§ 146-27. The role of the Department of Administration in sales, leases, and rentals.*

Every sale, lease, ~~or rental~~ rental, or gift of land owned by the State or by any State agency shall be made by the Department of Administration and approved by the Governor and Council of State; provided that if the proposed disposition is a sale or gift of land with an appraised value of at least twenty-five thousand dollars ($25,000), the sale or gift ~~may only be~~ shall not be made until after consultation with the Joint Legislative Commission on Governmental Operations. The Department of Administration may initiate proceedings for sales, leases, ~~and rentals~~ rentals, and gifts of land owned by the State or by any State agency."

(b) G.S. 146-74 reads as rewritten:

"*§ 146-74. Approval of conveyances.*

Every proposed conveyance in ~~fee~~ fee, including conveyances by gift, of State lands shall be submitted to the Governor and Council of State for their approval. If the proposed conveyance is of State lands with an appraised value of at least twenty-five thousand dollars ($25,000), and it is for other than a transportation purpose, the Council of State shall consult with the Joint Legislative Commission on Governmental Operations before making a final decision on the

proposed conveyance. Upon approval of the proposed conveyance in fee by the Governor and Council of State, a deed for the land being conveyed shall be executed in the manner prescribed in this Article."

(c) G.S. 146-29.1 reads as rewritten:

"§ *146-29.1. Lease or sale of real property for less than fair market value.*

(a) Real property owned by the State or any State agency may not be sold, leased, or rented at less than fair market value to any private entity that operates, or is established to operate for profit.

(b) Real property owned by the State or by any State agency may be sold, leased, or rented at less than fair market value to a public entity. 'Public entity' means a county, municipal corporation, local board of education, community college, special district or other political subdivision of the State and the United States or any of its agencies. Any such sale, lease, or rental shall be reported at least 30 days prior to the sale, lease, or rental to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office, with the details of such transaction.

(c) Real property owned by the State or by any State agency may be sold, leased, or rented at less than market value to a private, nonprofit corporation, association, organization or society upon a determination by the Department of Administration that such transaction is in consideration of public service rendered or to be rendered. The transaction shall be reported in detail at least 30 days prior to the sale, lease, or rental to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office. In the case of a private, nonprofit corporation, association, organization, or society that engages in some for-profit activities, the amount of the sale, lease, or rent shall be not less than the fair market value of the property times the percentage of the total activities of the corporation, association, organization, or society that are for profit.

(d) Any sale, lease, or rental of real property made in conformity with the provisions of this section is not a violation of G.S. 66-58(a).

(e) All sales, leases, or rentals, prior to July 15, 1986, of real property owned by the State or any State agency are not invalid because of a conflict with G.S. 66-58(a) or with a prior version of this section, but any renewal of any such lease or rental agreement on or after July 15, 1986, shall conform to the requirements of this section."

Requested by: Representatives Sutton, Bowman, DeVane, Wainwright, Crawford, Senators Daniel, Plyler, Kaplan

INDIAN CULTURAL CENTER FUNDS

Sec. 33. (a) Of the funds appropriated from the General Fund to the Department of Administration, the sum of seven hundred fifty thousand dollars ($750,000) for the 1993-94 fiscal year shall be used for the purchase of land as necessary, an environmental study, and design as necessary, of the North Carolina Indian Cultural Center in Robeson County. Up to fifty thousand dollars ($50,000) of these funds may be used by the North Carolina Indian Cultural Center, Inc., for administrative and operating expenses.

(b) Subsection (a) of Section 22 of Chapter 900 of the 1991 Session Laws reads as rewritten:

"(a) Of the funds appropriated to the Department of Administration in Section 3 of Chapter 689 of the 1991 Session Laws, the sum of one thousand five hundred dollars ($1,500) shall be expended for maintenance of the following State lands located in Robeson County:

(1) 386.69 acres contained in the deed dated April 14, 1983, and recorded in Deed Book 533, page 164, Robeson County Registry;

(2) 386.69 acres contained in the deed dated August 24, 1984, and recorded in Deed Book 563, page 254, Robeson County Registry;

(3) 99.62 acres contained in the deed dated March 20, 1985, and recorded in Deed Book 575, page 523, Robeson County Registry; and

(4) 10.00 acres contained in the deed dated September 11, 1985, and recorded in Deed Book 586, page 142, Robeson County Registry.

The public golf course known as the Riverside Golf Course, and any Indian Cultural Center developed or constructed on the above referenced lands shall be included in lands for which funds may be expended for maintenance under this section. No Indian Cultural Center developed or constructed on any of the above referenced lands shall be built ~~on a public golf course,~~ in a manner that will materially affect the operation of the Riverside Golf Course, including the clubhouse, parking areas, and access to the course, unless prior approval is granted by the General Assembly. ~~No lease on the public golf course known as the Riverside Golf Course shall be entered into by the Department of Administration for a lease term in excess of 12 months unless prior approval is granted by the General Assembly.~~

Nothing in this provision shall be construed as being inconsistent with the provisions of Section 18 of Chapter 1074 of the 1989 Session Laws.

Any lease of the lands and buildings comprising the public golf course known as the Riverside Golf Course entered into by the State of North Carolina and any entity other than the North Carolina Indian

Cultural Center, Inc., shall by its terms continue the use of the lands and buildings as a public golf course."

(c) Subsection (a) of Section 18 of Chapter 1074 of the 1989 Session Laws, as amended by subsection (e) of Section 22 of Chapter 900 of the 1991 Session Laws, as amended by Section 1 of Chapter 88 of the 1993 Session Laws, reads as rewritten:

"(a) The State of North Carolina shall lease out to the North Carolina Indian Cultural Center, Inc., for a period of 99 years at a monetary consideration of $1.00 per year all the real property it acquired for the Indian Cultural Center, except that portion containing the Riverside Golf Course, but no part of Phase I of the project may be constructed either by the State or for the lessee until an environmental impact assessment is completed on Phase I of the property, and if required pursuant to Article 1 of Chapter 113A of the General Statutes, an environmental impact statement is prepared. The State shall enter into a lease agreement in accordance with this section not later than December 31, 1993. If the State and the North Carolina Indian Cultural Center, Inc., do not enter into a lease agreement by December 31, 1993, then the property may be used for any public purpose.

Any lease agreement entered into by the State with the North Carolina Indian Cultural Center, Inc., shall include but not be limited to the following terms:

(1) An environmental impact assessment pursuant to Article 1 of Chapter 113A of the General Statutes is completed on Phase I of the property.

(2) The lease shall include a reversionary clause stipulating that the North Carolina Indian Cultural Center, Inc., must raise funds or receive pledges totalling the $4,160,000 necessary to complete Phase I of this project within three years from the date of execution of the lease agreement.

(3) If the funds or pledges are not obtained within three years from the date of execution, then this lease agreement will automatically terminate.

(4) The North Carolina Indian Cultural Center, Inc., as lessee, may conduct no construction of Phase I on the premises until it has fulfilled the terms of the lease agreement.

~~(5) The North Carolina Indian Cultural Center, Inc., as lessee, shall enter into a sublease agreement with the operator of the land and buildings known as the Riverside Golf Course to continue the operation and maintenance of the Riverside Golf Course under the same terms as the lease agreement between the State and the operator of the Riverside Golf Course. The sublease agreement shall be renewable~~

~~annually until such time as the terms of the lease agreement as required under subdivisions (1) through (4) of this subsection have been fulfilled.~~"

(d) The second line of Section 1 of Chapter 88 of the 1993 Session Laws is amended by inserting the phrase "of Section 22" between "Subsection (e)" and "of Chapter 900".

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

OLD EDUCATION BUILDING AND OLD REVENUE BUILDING RENOVATION REPORT

Sec. 34. The Office of State Construction of the Department of Administration shall, prior to the expenditure of funds, report to the Joint Legislative Commission on Governmental Operations by October 1, 1993, the extent to which renovations are necessary for occupancy of the old Education Building and the old Revenue Building and how that Office proposes to spend the one million dollars ($1,000,000) appropriated in this act for the planning of the renovation of these buildings.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

MUSEUM OF THE ALBEMARLE

Sec. 35. Funds appropriated from the General Fund to the Department of Cultural Resources for the Museum of the Albemarle in this act shall be used for design and construction of new facilities for the Museum of the Albemarle. The facility shall be sited in downtown Elizabeth City and funds appropriated in this act for this project may be used for the purchase of land if necessary.

PART 12. DEPARTMENT OF CULTURAL RESOURCES

Requested by: Representatives Nesbitt, Diamont, Crawford, Wainwright, Senators Daniel, Plyler, Kaplan

LOCAL HISTORICAL ORGANIZATIONS GRANTS

Sec. 36. Funds appropriated in this act for the 1993-94 fiscal year to the Department of Cultural Resources for Local Historical Organizations shall be distributed as grants-in-aid to nonprofit historical organizations or local governmental entities on a competitive basis in accordance with administrative guidelines issued by the Secretary of the Department of Cultural Resources. The purpose of the grants shall be to encourage, through the use of grants-in-aid, the protection, preservation, and interpretation of historic assets with local or regional significance. Priority consideration shall be given to the

local historical organization's educational objectives. Grants shall be limited to amounts of fifty thousand dollars ($50,000) or less.

Requested by: Representatives Nesbitt, Diamont, Crawford, Wainwright, Senators Daniel, Plyler, Kaplan
LOCAL CULTURAL ORGANIZATIONS

Sec. 37. Of the funds appropriated in this act to the Department of Cultural Resources, the sum of one million dollars ($1,000,000) shall be allocated to local cultural organizations under the General Support Program of the North Carolina Arts Council. Priority consideration shall be given to the local cultural organization's educational objectives.

Requested by: Representatives Diamont, Nesbitt, Wainwright, Crawford, Culpepper, James, Blue, Fitch, Black, Gray, Ellis, Senators Daniel, Plyler, Kaplan
SOMERSET PLACE FUNDS/MEMORIAL

Sec. 38. Notwithstanding G.S. 100-8, of the funds appropriated in this act to the Department of Cultural Resources for Somerset Place for the 1993-94 fiscal year, the sum of two thousand dollars ($2,000) shall be allocated to provide an appropriate memorial at Somerset Place.

PART 13. DEPARTMENT OF INSURANCE
Requested by: Representatives McAllister, Wainwright, Crawford, Senators Daniel, Plyler, Kaplan
MINORITY BOND STUDY

Sec. 39. (a) The Department of Insurance shall study the need to develop a program to provide surety bonds to minority contractors. The Department of Insurance shall consider the following issues in its study and any other relevant issues:

(1) The specific criteria for a minority bonding program.
(2) Staff resources within State government that are available to provide prescreening of applications for bonding applicants.
(3) How to better provide opportunities for small and disadvantaged minority contractors to secure bonding assistance.
(4) Monitoring procedures for projects and financial plan development in program criteria.
(5) Procedures to develop and promote joint ventures and partnerships where appropriate to facilitate bondability.

(b) The Department shall seek the views and opinions of the public and private sectors with regard to the development of a surety bond program for minority businesses. The Department of Insurance

shall report its findings and recommendations to the 1993 General Assembly, 1994 Regular Session.

Requested by: Representatives Nesbitt, Wainwright, Crawford, Senators Daniel, Plyler, Kaplan

SAFETY GRANTS COORDINATOR

Sec. 40. The Commissioner of Insurance shall establish the position of Safety Grants Coordinator, together with one supporting clerical position, within Fund Code 1110, Department of Insurance. The State Treasurer shall transfer one hundred twenty-five thousand dollars ($125,000) for the 1993-94 fiscal year and one hundred twenty-five thousand dollars ($125,000) for the 1994-95 fiscal year from the Department of Insurance Fund to the Department of Insurance to support these positions. The transfers shall be accounted as departmental receipts and shall be budgeted for expenditures in addition to amounts approved for the Department of Insurance under Chapter 321 of the 1993 Session Laws.

PART 13.1. SECRETARY OF STATE

Requested by: Representatives Redwine, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

BUSINESS LICENSE OFFICE/MASTER APPLICATION SYSTEM

Sec. 41. (a) G.S. 147-54.16 reads as rewritten:

"§ *147-54.16. Master application system.*

~~The Office shall develop an operating plan for an automated master application system, shall determine the software and hardware needs of the system, and shall determine the staffing levels and space required for the system. The plan shall be developed with the assistance of the departments that issue business licenses and with due regard to privacy statutes. In making the determinations and developing an operating plan for an automated master application system, the Office shall identify the business licenses appropriate for inclusion in a master application system and shall develop a master application form that consolidates the information needed for the various State agencies to issue the licenses. Environmental licenses may not be included in a master application form.~~

The Office shall implement and administer an automated master application system. The Office shall determine the licenses appropriate for inclusion in the master application system. The Office may not include environmental licenses in the master application system.

The appropriate agency shall continue to determine whether a requested license shall be issued and to issue the license if the application is approved by the agency. An applicant who receives written notification by the Office that a license requested through the

Office is being issued by the appropriate agency may proceed with the licensed business activity without having physical possession of the issued license.

The Office shall collect from each applicant the total amount of the fees for the licenses applied for through the Office. The Office is the repository for an original signed application form submitted through the Office for a license that is included in the master application system. If, based on the information supplied by the applicant to the Office, the Office fails to make application for a required license, and the applicant did not know such a license was required, the applicant shall not be liable for any civil or criminal penalties or disciplinary action for failure to have the license. If the failure to obtain the license is reported to the applicant by either the Office or the agency issuing the license, the applicant must make application within 30 days or be subject to the penalties or disciplinary action.'

(b) The Business License Information Office shall implement a master application system as described in Article 4B of Chapter 147 of the General Statutes. The master application system shall be implemented in two phases as described below over a period of two years. The first phase of the process to implement the master application system shall be completed by July 1, 1994. The Department of the Secretary of State shall evaluate the first phase of the implementation of the master application system and shall report to the Joint Legislative Commission on Governmental Operations by October 1, 1995, regarding the evaluation. The second phase of the process to implement the master application system shall be completed by January 1, 1996.

(1) Phase I. Applicant Tracking Module.
This phase shall consist of the following automated functions: recording and tracking of inquiries regarding business licenses, identification of required licenses, and monitoring of the status of the resulting applications. The original signed license applications received by the Office during this phase shall be forwarded by the Office to the appropriate licensing agency.

(2) Phase II. Application Generation Module.
During this phase the Office shall implement the centralized application process so that a master application may be generated for those licenses deemed appropriate by the Office for inclusion in the master application system. The Office shall retain the original signed license applications for licenses requested through the Office that are included in the master application system.

(c) Of the funds appropriated in this act from the General Fund to the Department of the Secretary of State the sum of three hundred fifty thousand dollars ($350,000) for the 1993-94 fiscal year shall be used to implement the master application system as provided in G.S. 147-54.16.

(d) This section becomes effective September 1, 1993.

PART 14. SALARIES AND BENEFITS

Requested by: Representative Diamont, Nesbitt, Senators Daniel, Plyler, Kaplan

STATE FICA SAVINGS USE EXTENSION

Sec. 42. Section 14(i) of Chapter 1044 of the 1991 Session Laws reads as rewritten:

"(i) Subsections (a) through (d) of this section are effective January 1, 1990. Subsections (e) through (h) of this section are effective January 1, 1991. Subsections (a) through (h) of this section shall expire December 31, ~~1993.~~ 1994."

PART 15. COLLEGES AND UNIVERSITIES

Requested by: Senators Lee, Daniel, Plyler, Kaplan, Representatives Barnes, Nesbitt, Diamont

UNC-CH EDUCATIONAL CONSORTIUM

Sec. 43. Of the funds appropriated in this act to The Board of Governors of The University of North Carolina, the sum of one hundred fifty thousand dollars ($150,000) shall be allocated by the Board for a new cooperative educational consortium at the University of North Carolina at Chapel Hill. This consortium shall comply with the requirements of Section 101.2 of Chapter 321 of the 1993 Session Laws.

Requested by: Representatives Rogers, Black, Jeffus, Senators Daniel, Plyler, Kaplan

UNC EDUCATIONAL CONSORTIA

Sec. 44. The Board of Governors of The University of North Carolina shall require each constituent institution that has received an allocation of State funds under Section 206.3 of Chapter 689, 1991 Session Laws, Section 101.2, Chapter 321, 1993 Session Laws, or in this act for educational consortia and the purposes stated in these sections to provide a report to the Joint Legislative Education Oversight Committee on the allocation and use of these funds, the amount and sources of non-State funds contributed to these efforts, activities supported by these funds, and an assessment of the educational value added by these efforts. The reports shall be

submitted by May 15, 1994, with copies to the Fiscal Research Division of the Legislative Services Office.

Requested by: Representative H. Hunter, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

SWINE FARM ODOR ABATEMENT STUDY

Sec. 45. (a) Of the funds appropriated in this act to the Board of Governors of The University of North Carolina for Agricultural Programs, the sum of eighty-five thousand dollars ($85,000) for the 1993-94 fiscal year shall be used to perform a technical study on the cause, extent, and abatement of odors from swine farms and to compile information on the impact of swine farms on ground and surface water supplies. The study shall be conducted by the North Carolina Agricultural Research Service (NCARS) of the College of Agriculture and Life Sciences at North Carolina State University. Reports on the progress of the study shall be presented to the Chair of the House Agriculture Committee, and the Chair of the Senate Committee on Agriculture, Marine Resources, and Wildlife, and they shall report to their respective committees biannually. The study shall ascertain:

(1) The causes of odors from swine farms;

(2) Methods and technology to control, abate, and reduce the odors from swine farms in a manner that is economically feasible; and

(3) North Carolina's, other states', and other countries' efforts and research being conducted to reduce odors on swine farms.

(b) NCARS shall also:

(1) Compile information regarding methods and technology available which address the impact of swine farms on ground and surface water supplies; and

(2) Compile information from North Carolina, other states, and other countries on efforts and research being conducted on ground and surface water impacts of swine farms.

(c) The focus of the above research shall be:

(1) To offer economically feasible solutions to existing operations for reduction of odor;

(2) To offer economically feasible solutions that may be incorporated into new swine operations for reduction of odor;

(3) To review the information available on the impact of swine farms on ground and surface water supplies and propose economically feasible solutions; and

(4) To identify those areas needing further research to ensure the availability of economically feasible solutions for odor reduction and wastewater supplies created by swine farms.

NCARS shall file its final report and recommendations on or before the convening of the 1995 General Assembly. The report shall be filed with the Offices of the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Chair of the House Agriculture Committee, the Chair of the Senate Committee on Agriculture, Marine Resources, and Wildlife, the Offices of the Principal Clerks of the Senate and the House of Representatives, and the Legislative Librarian.

(d) Of the funds appropriated in this act, the sum of fifteen thousand dollars ($15,000) for the 1993-94 fiscal year shall be used for the House Agriculture Committee and the Senate Committee on Agriculture, Marine Resources, and Wildlife to hold meetings and tour swine farms in the State for evaluating information on the issues of odors and wastewater supplies from swine farms. The Chairs of both Committees shall call the meetings and tours as they consider necessary.

Requested by: Representatives Nesbitt, Diamont, Fitch, Senators Daniel, Plyler, Kaplan

FRESHMEN SCHOLARS PROGRAM

Sec. 46. Of the funds appropriated to the Board of Governors of The University of North Carolina in this act, one million dollars ($1,000,000) shall be allocated in the 1993-94 fiscal year equally among five constituent institutions for a pilot Freshmen Scholars Program. The five constituent institutions to receive funds are Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, Pembroke State University, and Winston-Salem State University.

These funds shall not revert and are to be used by the campuses in recruiting new students to enroll in the future who might not be able to attend college without this incentive. The funds shall be placed in trust funds accounts, with the investment earnings to be used for this program as well.

The funds shall be used to guarantee high school students tuition, fees, and books for their freshman year of college. Students shall be eligible if they meet the standards established by each campus; the standards shall include minimum grade point average, minimum admission standards, additional coursework required by the campus, and behavioral guidelines.

The institutions receiving these funds shall establish standards for eligibility by September 30, 1993, and shall recruit students in

regional high schools. The scholarship guarantees are for one year only, and may be combined with other financial aid when the students enroll in college.

The five campuses receiving these grants shall report to the General Assembly by February 1, 1995, on their guidelines for receiving these scholarship funds and the progress of students in this pilot program. The success of these pilot efforts in attracting students who otherwise might not have enrolled at each campus or in any higher education institution shall be evaluated by the Board of Governors of The University of North Carolina, with a report to the Joint Legislative Education Oversight Committee by May 15, 1996.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

ENGINEERING GRADUATE RESEARCH CENTER FUNDS

Sec. 47. Of the funds appropriated in Chapter 1044 of the 1991 Session Laws, Regular Session 1992, from the General Fund to the Board of Governors of The University of North Carolina for the Engineering Graduate Research Center (EGRC) at North Carolina State University, up to one million five hundred thousand dollars ($1,500,000) may be released and expended for equipment that will be located in the EGRC upon its completion.

Requested by: Senators Winner of Buncombe, Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

UNC ASHEVILLE LAND FUNDS

Sec. 48. Of the funds appropriated in this act from the General Fund to the Board of Governors of The University of North Carolina, the sum of two million dollars ($2,000,000) for the 1993-94 fiscal year shall be used for the purchase of additional property for the University of North Carolina at Asheville to allow for future campus growth.

Requested by: Representatives Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY APPLIED MANUFACTURING CENTER

Sec. 49. Funds appropriated in this act to the Board of Governors of The University of North Carolina for an Applied Manufacturing Education Center for North Carolina Agricultural and Technical State University may be expended only on a facility that is owned and controlled by North Carolina Agricultural and Technical State University. Prior to the expenditure of these funds, the Board of Governors shall present a plan for the use of these funds to the Joint

Legislative Commission on Governmental Operations. This plan shall include all financial, organizational, and legal arrangements pertaining to the use of these funds and the proposed facility, and shall include projections and plans for the operation of the facility, including operating costs.

PART 16. DEPARTMENT OF COMMUNITY COLLEGES

Requested by: Representative Easterling, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

CERTAIN REFUGEES STATE RESIDENTS FOR COMMUNITY COLLEGE TUITION PURPOSES, CONTINUED

Sec. 50. (a) Subsection (d) of Section 25 of Chapter 1044 of the 1991 Session Laws is repealed.

(b) This section becomes effective June 30, 1993.

Requested by: Representatives Black, Rogers, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

BOOKS AND EQUIPMENT APPROPRIATIONS/CHANGES IN SPECIFICATIONS REGARDING REVERTING

Sec. 51. Section 113 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 113. Appropriations to the Department of Community Colleges for equipment and library books are made for each year of the fiscal biennium. All unencumbered appropriations for library books shall revert to the General Fund 12 months after the close of each fiscal year for which they were appropriated. All equipment funds shall revert to the General Fund 48 months after the close of each fiscal year for which they were appropriated. Equipment funds shall not be spent for any other purpose. Encumbered balances outstanding at the end of each period shall be handled in accordance with existing State budget policies. The Department shall be able to identify to the Office of State Budget and Management which appropriations will revert at the end of the 12 months after the close of each fiscal year."

PART 17. PUBLIC SCHOOLS

Requested by: Representatives Diamont, Nesbitt, Senators Daniel, Plyler, Kaplan

SMALL SCHOOL FORMULA/HOLD HARMLESS PROVISION

Sec. 52. (a) The General Assembly finds that the data to enable the Department of Public Instruction to determine eligibility for small school system supplemental funding for the 1993-94 fiscal year was not available from the Department of Revenue until July 8, 1993; therefore, this determination was made well after the boards of county

commissioners had acted on the boards of education budgets for the 1993-94 fiscal year. While considering the budgets for the Ashe and Jackson County School Administrative Units, the boards of county commissioners of those counties assumed that small school system supplemental funding would be available for the 1993-94 fiscal year. Therefore, for the 1993-94 fiscal year only, notwithstanding the provisions of Section 138.1 of Chapter 321 of the 1993 Session Laws, the State Board of Education shall allocate funds appropriated for small school system supplemental funding in this act to the Ashe and Jackson County School Administrative Units. Each of these county school administrative units shall receive for the 1993-94 fiscal year the same amount it received for the 1992-93 fiscal year.

(b) Section 138(j) of Chapter 321 of the 1993 Session Laws requires the Department of Revenue to provide to the Department of Public Instruction a final report prior to May 1 of each year of all data necessary to determine eligibility for small school system supplemental funding; therefore, (i) all boards of county commissioners will have this information when they consider the budgets for their county school administrative units, and (ii) the General Assembly does not intend to hold counties harmless in future fiscal years.

Requested by: Representatives Gottovi, Redwine, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

NEW HANOVER COUNTY SCHOOLS PAY DATES CHANGED

Sec. 53. Notwithstanding the provisions of G.S. 115C-302(a), G.S. 115C-316(a), or any other provision of law, all 10-month contract teachers and all 10-month contract teacher assistants of the New Hanover County Schools shall be paid on the fifteenth day of each month. Nothing in this section shall have the effect of changing the rate of pay for any employee of New Hanover County Schools.

This section shall not be construed to authorize prepayment of any employees by the New Hanover County Board of Education.

Requested by: Representatives Black, Rogers, Barnes, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

PAYMENT OF CAREER DEVELOPMENT BONUSES

Sec. 54. G.S. 115C-238.4(e) reads as rewritten:

"(e) Any additional compensation received by an employee as a result of the unit's participation in the Program shall be paid as a bonus or supplement to the employee's regular salary. If an employee in a participating unit does not receive additional compensation, such failure to receive additional compensation shall not be construed as a demotion, as that term is used in G.S. 115C-325.

Payments of bonuses or supplements shall be made no more frequently than once every calendar quarter: Provided, however, ~~prior to the 1994-95 school year,~~ payments in the career development pilot units may be made on a monthly basis."

Requested by: Representatives Green, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

CPR INSTRUCTION STUDY

Sec. 55. The State Board of Education shall study the issue of whether local boards of education are providing for the efficient teaching at appropriate grade levels of cardio-pulmonary resuscitation (CPR) and the Heimlich maneuver, as required by G.S. 115C-81(c). The State Board shall report the results of its study to the Joint Legislative Education Oversight Committee prior to May 1, 1994.

Requested by: Representatives Black, Rogers, Barnes, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

DIFFERENTIATED PAY FUNDS/REVERSION

Sec. 56. (a) G.S. 115C-238.4 is amended by adding a new subsection to read:

"(a1) All State-differentiated pay funds shall become available for expenditure July 1 of each fiscal year. These funds shall remain available for expenditure for:

(1) Bonuses and supplements to implement local differentiated pay plans until November 30 of the subsequent fiscal year; and

(2) Staff development to implement local differentiated pay plans until August 31 of the subsequent fiscal year: Provided, however, if funds allocated for bonuses and supplements under a local differentiated pay plan are not spent for that purpose because of a failure to meet local goals, these funds shall remain available until November 30 of the subsequent fiscal year to provide for staff development in accordance with that local plan."

(b) This section applies to all fiscal years beginning with the 1992-93 fiscal year.

Requested by: Representatives Colton, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

NONCERTIFIED SCHOOL EMPLOYEE STUDY

Sec. 57. The Joint Legislative Education Oversight Committee may study the methods by which local boards of education employ, train, evaluate, and dismiss noncertified employees, including, but not limited to, the issues of recruitments, standards, salary, job protection,

and due process, and may report its findings and recommendations to the 1994 Session of the General Assembly.

Requested by: Representatives Barnes, Black, Rogers, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

TEACHER TRAINING TASK FORCE

Sec. 58. (a) Section 2 of Chapter 971 of the 1991 Session Laws reads as rewritten:

"Sec. 2. Membership. The Task Force shall consist of ~~20~~ 23 members as follows:

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one member of the Joint Legislative Education Oversight Committee to serve on the Task Force.

(b) The Superintendent of Public Instruction, or a designee.

(c) The nine members of the Joint Committee on Teacher Education of the Board of Governors of The University of North Carolina and the State Board of Education. In the event that a State Board or Board of Governors member's term expires, and that person serves as a Joint Committee member to the Task Force, the appointing board may elect to reappoint the expired member to continue to serve on the Task Force.

(c1) Four teachers currently employed in the North Carolina public schools, appointed by the cochairs of the Task Force in accordance with this subsection. One teacher shall be chosen from each of the following types of school systems: small, urban, rural, and low-wealth. At least one of the four teachers shall have graduated from a North Carolina teacher training program since 1989. Insofar as possible, teacher members shall represent gender, ethnic, and racial diversity. New teacher members shall be chosen by the cochairs from a list compiled by the State Superintendent of several suggested candidates in each category. If a teacher member was previously appointed under subsection (d) of this section, that person may continue to serve, and may become the representative of one of the types of school systems listed in this subsection. Task Force members appointed by the cochairs to serve on an ad hoc basis prior to the effective date of this legislation shall, with the approval of the cochairs, be entitled to per diem, subsistence, and travel allowances retroactively and in accordance with G.S. 138-5, 138-6, or 120-3.1.

(d) The Board of Governors of The University of North Carolina and the State Board of Education shall jointly appoint ~~eight~~ seven members from a list of recommended members to be suggested by the Joint Committee on Teacher Education of the Board of Governors of The University of North Carolina and the State Board of Education.

Members may be recommended from among representatives of practicing public school teachers and personnel; public school administrators; the deans of schools of education; the chancellors of the constituent institutions of The University of North Carolina and the chief officers of private institutions of higher education. Other qualified persons may be recommended by the Joint Committee and approved by the Boards. Task Force members shall receive per diem, subsistence, and travel allowances in accordance with G.S. 138-5, 138-6, or 120-3.1, as appropriate. Appointments to the Task Force shall be made no later than September 1, 1992. If a vacancy occurs in the membership, the appointing authority shall appoint another person to serve for the balance of the unexpired term."

(b) Sec. 3.1 of Chapter 971 of the 1991 Session Laws reads as rewritten:

"Sec. 3.1. Cochairs. The State Board of Education and the Board of Governors of The University of North Carolina shall each appoint a cochair from the nine members of the Joint Committee on Teacher Education of the Board of Governors of The University of North Carolina and the State Board of Education. The Task Force shall meet upon the call of the cochairs. In the event that a State Board or Board of Governors member's term expires, and that person serves as a cochair of the Task Force, the appointing board may reappoint the expired member to continue to serve as cochair of the Task Force."

(c) Of the funds appropriated in this act to the Board of Governors of The University of North Carolina, the sum of ten thousand dollars ($10,000) for the 1993-94 fiscal year shall be used to complete the activities of the Teacher Training Task Force, reconvened pursuant to Chapter 971 of the 1991 Session Laws, Regular Session 1992, as recommended by the Teacher Training Task Force and the Joint Legislative Education Oversight Committee.

Requested by: Representatives Nesbitt, Diamont, Black, Rogers, Senators Daniel, Plyler, Kaplan

PUBLIC SCHOOL LIBRARY TECHNOLOGY FUNDS

Sec. 59. The funds appropriated to Aid to Local School Administrative Units for public school library technology shall be allocated to local school administrative units by the State Board of Education on the basis of average daily membership and shall be used only to enhance the availability of technology in public school libraries.

Requested by: Representatives Black, Rogers, Nye, James, Wilkins, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

NORTH CAROLINA FUTURE FARMERS OF AMERICA CENTER FUNDS

Sec. 60. Of the funds appropriated in this act to the Office of State Budget and Management, three hundred thousand dollars ($300,000) for the 1993-94 fiscal year shall be allocated to the North Carolina Future Farmers of America Foundation, Incorporated, for the North Carolina Future Farmers of America Center, for development, repairs, and renovations. These funds shall be matched by local funds on a dollar-for-dollar basis.

Requested by: Representatives Black, Rogers, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

FLEXIBILITY IN REORGANIZING DEPARTMENT OF PUBLIC INSTRUCTION POSITIONS

Sec. 61. The Superintendent of Public Instruction, with the approval of the State Board of Education, may request that the Director of the Budget (i) transfer federal funds from the Department of Public Instruction to Aid to Local School Administrative Units and (ii) offset that transfer by transferring a like amount of General Fund appropriations from Aid to Local School Administrative Units to the Department of Public Instruction. The Director of the Budget may authorize these transfers to the extent not prohibited by federal law or the conditions of federal grants.

Requested by: Representatives Black, Rogers, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

ADVANCED PLACEMENT PILOT PROGRAM/MATCHING REQUIREMENT

Sec. 62. Funds appropriated in this act to the Department of Public Instruction for the advanced placement pilot program shall be allocated by the Superintendent of Public Instruction. These funds shall be matched on the basis of one non-state dollar for every State dollar.

Requested by: Representatives Black, Rogers, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

PAYROLL DEDUCTION CLARIFICATION CONTINUED

Sec. 63. (a) G.S. 143-3.3(g) reads as rewritten:

"(g) Payroll Deduction for Payments to Certain Employees' Associations Allowed. -- An employee of the State or any of its institutions, departments, bureaus, agencies or commissions, or any of its local boards of education or community colleges, who is a member of a domiciled employees' association that has at least 2,000 members, the majority of whom are employees of the State or public school

employees, may authorize, in writing, the periodic deduction each payroll period from the employee's salary or wages a designated lump sum to be paid to the employees' association. The authorization shall remain in effect until revoked by the employee. A plan of payroll deductions pursuant to this subsection for employees of the State and other association members shall become void if the employees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit. This subsection does not apply to county or municipal governments or any local governmental unit, except for local boards of education."

(b) An authorization made under Section 80 of Chapter 900 of the 1991 Session Laws is considered to have been made under G.S. 143-3.3(g), as amended by subsection (a) of this section.

PART 18. DEPARTMENT OF TRANSPORTATION

Requested by: Representatives Nye, McAllister, McLaughlin, Nesbitt, Diamont, Senators Lee, Daniel, Plyler, Kaplan

DOT TO DEVELOP CRITERIA FOR NONBETTERMENT CONTRIBUTIONS

Sec. 64. The Department of Transportation shall study and implement a program for the payment of nonbetterment costs for the relocation of water and sewer lines within existing State highway rights-of-way required by G.S. 136-27.1 and shall develop criteria for State participation in the relocation of water and sewer lines owned by units of local government, special districts, and municipal corporations based on:

(1) Their ability to pay;

(2) The per capita income of the populations served; and

(3) The supporting tax base.

The Department of Transportation shall report on the criteria developed to the Joint Legislative Highway Oversight Committee and the Fiscal Research Division of the Legislative Services Office by October 1, 1993.

Requested by: Representatives McAllister, McLaughlin, Nesbitt, Diamont, Senators Lee, Daniel, Plyler, Kaplan

HIGHWAY FUND AND HIGHWAY TRUST FUND SMALL PROJECT BIDDING

Sec. 65. (a) Notwithstanding the provisions of G.S. 136-28.4(b), for Highway Fund or Highway Trust Fund projects of three hundred thousand dollars ($300,000) or less, the Board of Transportation may, after soliciting at least three informal bids in writing from Small Business Enterprises, award contracts to the lowest

responsible bidder. The Department of Transportation may identify projects likely to attract increased participation by Small Business Enterprises, and restrict the solicitation and award to those bidders. The Board of Transportation may delegate full authority to award contracts, adopt necessary rules, and administer the provisions of this section to the Secretary of Transportation.

(b) The letting of contracts under this section is not subject to any of the provisions of G.S. 136-28.1 relating to the letting of contracts. The Department may waive the bonding requirements of Chapter 44A of the General Statutes and the licensing requirements of Chapter 87 for contracts awarded under this section.

(c) The Secretary of Transportation shall report quarterly to the Joint Legislative Transportation Oversight Committee on the implementation of this section.

Requested by: Representatives McAllister, McLaughlin, Nesbitt, Diamont, Senators Lee, Daniel, Plyler, Kaplan

MANAGEMENT ASSESSMENT AND COMPLIANCE POSITIONS RECREATED

Sec. 66. From funds available to the Department of Transportation from funding codes 84210, 84220, and 84260, the Department of Transportation may recreate three positions in Management Assessment and Compliance that were eliminated in the Current Operations Appropriations Act of 1993, Chapter 321 of the 1993 Session Laws.

Requested by: Representatives McAllister, McLaughlin, Nesbitt, Diamont, Senators Lee, Daniel, Plyler, Kaplan

RESERVE FOR PROMOTION AND DEVELOPMENT OF INTERNATIONAL AIR SERVICE

Sec. 67. Of the funds appropriated in this act to the Reserve for Promotion and Development of International Air Service, the sum of five million dollars ($5,000,000) shall be used to acquire, promote, and develop international air routes and service.

Requested by: Senators Daniel, Plyler, Kaplan, Perdue, Representatives Nesbitt, Diamont

PLANNING FUNDS FOR REPLACEMENT TRESTLE

Sec. 68. Of the funds appropriated in this act from the General Fund to the North Carolina Ports Railway Commission, the sum of two hundred fifty thousand dollars ($250,000) for the 1993-94 fiscal year shall be used to plan for the replacement of the wooden trestle over the Newport River on the Beaufort and Morehead Railroad with a modern concrete trestle.

The Attorney General and the Department of Transportation shall identify legal issues related to the design, construction, and operation of the new trestle and shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office not later than March 1, 1994, on options available to resolve those issues.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

HIGHWAY 264 REST AREA

Sec. 69. Funds appropriated in Chapter 900, Section 106, 1991 Session Laws, Regular Session 1992, for the construction of a rest area at U.S. Highway 264 in Beaufort County may also be used for the purchase of land to be used as a site for that rest area after reporting to and review by the Joint Legislative Commission on Governmental Operations.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

DOT VEHICLES EXEMPTION

Sec. 70. (a) All State-owned passenger motor vehicles which are permanently assigned to the Department of Transportation or its individual employees are exempt from the minimum mileage requirements of G.S. 143-341(8)i.7a. The Department shall report on the utilization of these vehicles to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Highway Oversight Committee on a quarterly basis beginning October 1, 1993.

(b) This section expires June 30, 1994.

Requested by: Senators Lee, Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

TRANSPORTATION OVERSIGHT STUDY DIESEL FUEL CONSUMPTION

Sec. 71. (a) The Joint Legislative Transportation Oversight Committee created in G.S. 120-70.50 shall study the issue of the level of consumption of diesel fuel in this State as compared to surrounding states. This study shall include all of the following:

(1) Investigation of the extent to which the 1989 diesel fuel tax increase to a rate above that in other South Atlantic states may have resulted in a shift of truck fueling to other states, noncompliance with the tax law by interstate truckers, or both.

(2) Analysis of the impact of the diesel fuel tax rate upon the level of consumption of liquid diesel fuel in this State and,

as a result, upon Highway Fund revenues and North Carolina Highway Trust Fund revenues and upon the truckstop business in North Carolina.

(3) Comparison of other states that have raised in-state fuel consumption by placing part of the fuel tax at the pump and collecting the remainder by reporting or otherwise.

(4) Evaluation of the diesel fuel tax proposal outlined in Senate Bill 1088, Second Edition, 1993 Session, A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE TAX ON DIESEL FUEL SHALL BE PAID PARTLY AT THE PUMP AND PARTLY BY EITHER REPORTING OR ANNUAL REGISTRATION TAX.

(5) Study of how these and other compliance measures can be used to enhance consumption of diesel fuel in this State.

(6) Consideration of any other issues the Committee considers relevant.

(b) The Department of Transportation and the Department of Revenue shall provide the Committee any information it requires to conduct this study. The Committee may make an interim report to the 1994 Session of the 1993 General Assembly and shall make a final report of the results of its study and any recommendations to the 1995 Session of the 1995 General Assembly on this study.

Requested by: Representatives Fitch, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

GLOBAL TRANSPARK ZONE INFRASTRUCTURE FUNDS

Sec. 72. The funds appropriated in this act from the General Fund to the Global TransPark Development Zone created pursuant to Article 4 of Chapter 158 of the General Statutes, as enacted by Senate Bill 853, 1993 General Assembly, shall be used for economic development projects and infrastructure construction projects as provided in Article 4 of Chapter 158 of the General Statutes. These funds shall be available to the Global TransPark Development Zone only after the effective date of a tax levied by the Zone pursuant to G.S. 158-42, as enacted by Senate Bill 853, 1993 General Assembly. In addition, these funds shall be available to the Global TransPark Development Zone only on a dollar-for-dollar match with non-State funds contributed on or after July 1, 1993, to the Global TransPark Foundation, Inc. Notwithstanding G.S. 143-31.4, the match can be in-kind.

These funds shall be credited quarterly, as the State Budget Officer receives certification of the receipt of the match, to the interest-bearing trust account created pursuant to G.S. 158-42, as enacted by Senate Bill 853, 1993 General Assembly, and shall be

subject to the restrictions on funds in that account provided in G.S. 158-42. Upon credit to the trust account, the funds become an asset of the Zone subject to all provisions of Article 4 of Chapter 158 governing Zone assets. These funds shall not revert to the General Fund but shall remain available until used for the purposes authorized in this section. If the Zone terminates, the funds may revert as provided in G.S. 158-41.

PART 19. DEPARTMENT OF CORRECTION

Requested by: Representatives Holt, Gist, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

RENOVATION OF POLK YOUTH INSTITUTION

Sec. 73. When the replacement facility for Polk Youth Institution has been completed and the inmates have been relocated, the existing Polk Youth Institution shall be renovated for use as a minimum custody facility.

Requested by: Representatives Michaux, Holt, Gist, Senators Daniel, Plyler, Kaplan

CREDIT FOR SAFEKEEPER MEDICAL EXPENSE PAYMENTS

Sec. 74. Section 2 of Chapter 983 of the 1991 Session Laws reads as rewritten:

"Sec. 2. Notwithstanding any other provision of law, counties shall not be liable for extraordinary medical expenses of safekeepers incurred prior to the effective date of this act; however, counties that reimbursed the Department of Correction for extraordinary medical expenses of safekeepers prior to the effective date of this act shall be given credit for that payment. The Department of Correction shall implement the credit by applying it against extraordinary medical expenses of safekeepers incurred on and after July 1, 1993. ~~no county that has reimbursed the Department of Correction for extraordinary medical expenses of safekeepers prior to the effective date of this act has the right to a refund or credit for such payment.~~"

Requested by: Representatives Holt, Gist, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

REPAIR AND RENOVATION FUNDS

Sec. 75. (a) Section 170 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 170. ~~From the funds appropriated to the Department of Correction in the certified budget for the 1993-94 fiscal year, the Department may transfer within its budget~~ The Department of Correction may use up to five million dollars ($5,000,000) from the Repair and Renovation Reserve in the Office of State Budget and

Management for repair and renovation of its facilities. The use of these funds shall be subject to the prior approval of the Office of State Budget and Management. The Department of Correction shall have a verifiable ten percent (10%) goal for participation by minority and women contractors in these projects. If necessary, the Department may transfer within its budget up to six hundred fifty thousand dollars ($650,000) in each fiscal year to match federal grant funds received by the Department.

The Department of Correction shall submit a schedule of repairs and renovations funded pursuant to this section and shall provide information on the use of minority and women contractors for those projects in a quarterly report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety."

(b) Of the funds appropriated in this act to the Office of State Budget and Management, Reserve for Repairs and Renovation, for the 1993-94 fiscal year, the sum of four hundred twelve thousand dollars ($412,000) shall be transferred to the Department of Correction for repairs and renovations to the Black Mountain Women's Correctional Center.

Requested by: Representatives Holt, Gist, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

CLARIFY POLICY CONCERNING CORRECTION ENTERPRISES

Sec. 76. The Department of Administration, Purchase and Contracts Division, in consultation with the Department of Correction, the North Carolina Citizens for Business and Industry, the North Carolina Association of County Commissioners, the North Carolina School Boards Association, and the North Carolina League of Municipalities, shall develop policy concerning the manufacture of goods and the provision of services by Correction Enterprises. The policy shall be for distribution to all State agencies and departments and shall:

(1) Address the appropriate levels of production and services by Correction Enterprises;

(2) Provide guidelines for purchase by State agencies from Correction Enterprises whenever Correction Enterprises offers lower prices for quality products than other potential vendors; and

(3) Identify the potential benefits to prisoner rehabilitation as a result of the Correction Enterprises program.

The Department of Administration shall submit the policy for approval by the General Assembly by March 15, 1994.

PART 19.1. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Holt, Gist, Nesbitt, Diamont

ALCOHOL LAW ENFORCEMENT OFFICER ACCESS TO PUBLIC INFORMATION NETWORK

Sec. 77. The Department of Crime Control and Public Safety may use up to forty-six thousand eight hundred dollars ($46,800) from forfeiture funds available in the 1993-94 fiscal year to provide access to the public information network by alcohol law enforcement officers.

PART 20. JUDICIAL DEPARTMENT

Requested by: Representatives Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

COMMUNITY PENALTIES PROGRAMS

Sec. 78. Section 189 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 189. (a) Of the funds appropriated from the General Fund to the Judicial Department for the 1993-95 biennium to conduct the community penalties programs, the sum of one million nine hundred eighteen thousand nine hundred twelve dollars ($1,918,912) for the 1993-94 fiscal year and the sum of one million nine hundred eighteen thousand nine hundred twelve dollars ($1,918,912) for the 1994-95 fiscal year may be allocated by the Judicial Department in any amount among existing community penalties ~~programs~~ programs, including State-operated programs, or may be used to establish new community penalties programs.

(b) The Judicial Department shall report annually to the Senate and House Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research Division on the administrative expenditures of the community penalties programs."

Requested by: Representatives R. Hunter, Holt, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

INDIGENT ATTORNEY CONTRACTS

Sec. 79. (a) G.S. 7A-344, as rewritten by Section 192 of Chapter 321 of the 1993 Session Laws, reads as rewritten:

"§ *7A-344. Special duties of Director concerning representation of indigent persons.*

In addition to the duties prescribed in G.S. 7A-343, the Director shall also:

(1) Supervise and coordinate the operation of the laws and regulations concerning the assignment of legal counsel for

indigent persons under Subchapter IX of this Chapter to the end that all indigent persons are adequately represented;

(2) Advise and cooperate with the offices of the public defenders as needed to achieve maximum effectiveness in the discharge of the defender's responsibilities;

(3) Collect data on the operation of the assigned counsel and the public defender systems, and make such recommendations to the General Assembly for improvement in the operation of these systems as appear to him to be appropriate; and

(4) Accept and utilize federal or private funds, as available, to improve defense services for the indigent, including indigent juveniles alleged to be delinquent or undisciplined. To facilitate processing of juvenile ~~and other indigent cases,~~ cases and civil cases in which a party is entitled to counsel, the administrative officer is further authorized, in any district or set of districts as defined in 7A-41.1(a), with the approval of the chief district court judge for cases in the district court division and the approval of the senior resident superior court judge for cases in the superior court division, to engage the services of a particular attorney or attorneys to provide specialized representation on a full-time or part-time basis."

(b) The Director of the Administrative Office of the Courts may conduct a pilot program in up to six judicial districts selected by the Director with the approval of the senior resident superior court judge and the chief district court judge of each district. To facilitate the processing of all cases, the Director shall, in each pilot area, engage the services of a particular attorney or attorneys to provide specialized representation to indigent persons on a full-time or part-time basis. The pilot program shall terminate on June 30, 1994, and the Administrative Office of the Courts shall provide a written evaluation of the pilot program to the North Carolina Courts Commission on or before October 1, 1994.

Requested by: Representatives Richardson, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

JUVENILE JUSTICE PILOT PROGRAM

Sec. 80. (a) Of the funds appropriated to the Judicial Department in this act, the sum of thirty thousand dollars ($30,000) for the 1993-94 fiscal year shall be used by the Cumberland County Dispute Resolution Center for the development and implementation of the programs described in subsection (c) of this section. These funds shall be matched by non-State funds on a dollar-for-dollar basis.

(b) The Administrative Office of the Courts shall distribute the funds in quarterly payments beginning July 1993, and ending April 1994. The Cumberland County Dispute Resolution Center shall provide the Administrative Office of the Courts with quarterly reports as to the expenditure of funds and relevant statistical data.

(c) The Cumberland County Dispute Resolution Center shall develop and implement the following programs to meet the objectives of this section:

(1) Development and implementation of a "Teen Court" Program as a community resource for the 12th Judicial District of North Carolina. Cases in which a juvenile has allegedly committed an offense in the 12th Judicial District that does not involve violence or personal injury, and that would constitute an infraction or misdemeanor if committed by an adult, may be diverted by Intake Services to "Teen Court" to be "sentenced" by a jury of the juvenile's peers. "Sentences" shall include extensive amounts of counseling and community service;

(2) "Teen Court" model programs made available to all junior and senior high schools in the 12th Judicial District to handle problems that develop at school but that have not been turned over to the juvenile authorities;

(3) Alternative sentencing programs implemented and made available to the juvenile court judges, including house arrest, monitored telephone curfew, Victim-Offender Reconciliation Programs (VORP), and mediation referrals;

(4) School-based mediation programs made available to schools within the 12th Judicial District, with students being trained as peer mediators and with teachers and administrators being trained in conflict resolution and mediation; and

(5) Curriculum supplements to the standard course of study made available to educators to teach conflict resolution and related topics to all students.

(d) The Cumberland County Dispute Resolution Center shall report at least annually to the Administrative Office of the Courts and to officials of the 12th Judicial District. The Administrative Office of the Courts shall evaluate the effectiveness of the programs and report its findings and any recommendations by March 15, 1995, to the Joint Legislative Commission on Governmental Operations and to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety.

PART 21. DEPARTMENT OF JUSTICE

Requested by: Representatives Holt, Gist, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

CENTRALIZED UTILIZATION OF LEGAL PUBLICATIONS

Sec. 81. The Attorney General and the Director of the Budget shall conduct a review of the proliferation of legal publications used by State agencies, departments, and institutions to determine:

(1) The most efficient utilization of legal publications; and

(2) The feasibility of providing centralized access to legal publications, including the fiscal impact of providing for the centralized use and availability of legal publications.

The Attorney General and the Director of the Budget shall report their findings and recommendations to the General Assembly by March 31, 1994, by submitting a copy of the report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Fiscal Research Division.

Requested by: Representatives Diamont, Nesbitt, Warner, Senators Daniel, Plyler, Kaplan

LAW ENFORCEMENT HALL OF HONOR FUNDS

Sec. 82. Of the funds appropriated in this act to the North Carolina Law Enforcement Hall of Honor Foundation, the sum of forty-five thousand dollars ($45,000) shall be used for the 1993-94 fiscal year for the support of activities relative to the promotion, planning, construction, administration, and maintenance of the Hall of Honor.

Requested by: Representatives Holt, Gist, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

BANKING COMMISSION LEGAL COUNSEL TECHNICAL CORRECTION

Sec. 83. G.S. 53-96 as rewritten by Section 206(b) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"*§ 53-96. Salary of Commissioner; legal assistance.*

The salary of the Commissioner of Banks shall be fixed by the General Assembly in the Current Operations Appropriations Act. The Attorney General shall assign an attorney on his staff to work full time with the Banking Commission. The attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. The Commission shall fully reimburse the Department of Justice for the compensation, secretarial support, equipment, supplies, records, and other property to support this attorney."

PART 22. DEPARTMENT OF HUMAN RESOURCES

Requested by: Representatives Nye, Easterling, Diamont, Nesbitt, Senators Daniel, Plyler, Kaplan

HEAD START CAPITAL FUNDS/1993-94

Sec. 83.1. Of the funds appropriated in this act to the Department of Human Resources for the 1993-94 fiscal year, the sum of one million one hundred thousand dollars ($1,100,000) is allocated to the Division of Child Development to provide grants to local private nonprofit agencies administering Head Start programs. These funds shall be used by the Head Start agencies for the payment of the cost of acquiring, constructing, reconstructing, renovating, equipping, and improving classroom facilities for the existing Head Start programs. The Department of Human Resources shall develop a formula for the distribution of State supplemental Head Start funds to those counties with the greatest relative burden of low-income children who qualify for Head Start, which formula shall include consideration of the percentage of North Carolina's unserved eligible Head Start children in each county and any other statistical indicator that is in keeping with the legislative intent.

Each Head Start program that is allocated State supplemental Head Start funds pursuant to this section shall submit a budget for review by the State. The budget shall itemize the program's expenditure of State funds. The expenditure needs shall fall under the allowable expenditure categories identified above.

Requested by: Representatives Easterling, Nye, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

MEDICAID PLANNING FUNDS

Sec. 84. Of the funds appropriated in this act from the General Fund to the Department of Human Resources for the 1993-94 fiscal year, the sum of two hundred thousand dollars ($200,000) may be used to plan and design an eligibility system to provide Medicaid coverage to all Supplemental Security Income recipients, elderly, and disabled persons with incomes below seventy-five percent (75%) of the federal poverty guidelines, and additional children. Nothing in this section shall be construed to obligate the State to provide Medicaid coverage to these individuals without further State appropriations for that purpose.

Requested by: Representatives Easterling, Nye, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

CHILDREN'S GRANTS FUNDS

Sec. 85. Of the funds appropriated in this act to the Department of Human Resources, the sum of two hundred thousand dollars

($200,000) for the 1993-94 fiscal year shall be allocated to counties for county programs that specifically provide services to children at risk and for capital needs relating to child day care services. Programs receiving funds pursuant to this section shall serve disadvantaged children and their families. These programs shall include juvenile delinquency prevention programs and services designed to prevent youth suicide. The Department shall develop requests for proposals for these grants and shall provide technical assistance to county programs needing assistance in making requests for these grants. Grants to individual county programs shall not exceed fifty thousand dollars ($50,000) but the grants shall not be limited only to those existing county programs funded by State, federal, or local sources.

Requested by: Representatives Easterling, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

COMMITMENT OF FOREIGN NATIONAL/CONSULAR NOTICE

Sec. 86. (a) G.S. 122C-344 reads as rewritten:

"§ *122C-344. Citizens of other countries.*

In addition to the provisions of G.S. 122C-341 through G.S. 122C-343, if a 24-hour facility determines that a client is not a citizen of the United States, the facility shall notify the Governor of this State of the name of the client, the country and place of his residence in the country and other facts in the case as can be obtained, together with a copy of pertinent medical records. The Governor shall send the information to the ~~Secretary of State at Washington, D.C.,~~ nearest consular office of the committed foreign national, with the request that ~~he~~ the consular office tell the minister resident or plenipotentiary of the country of which the client is alleged to be a citizen."

(b) This section is effective upon ratification and applies to commitments made on or after that date.

Requested by: Representatives Easterling, Nye, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

JUVENILE SECURE CUSTODY STUDY

Sec. 87. The Department of Human Resources and the Administrative Office of the Courts shall study the issue of secure custody facilities to determine how best to ensure that only those juveniles that meet the criteria set forth in G.S. 7A-574(b) and (c) are placed in secure custody and that the secure custody facilities available are not overcrowded and are as safe as possible for all the juveniles in secure custody. This study shall include:

(1) An analysis of all 1993 secure custody orders, to permit an evaluation of the criteria used, and the appropriateness of the criteria, for each order;
(2) A determination of the number of these orders made for juveniles to be adjudicated for offenses that would be crimes against the person or against property, if committed by an adult, for violation of probation, and for running away; and
(3) An evaluation of all secure custody facilities used in 1993, including the total length of custody for each juvenile, to determine the number of juveniles in the facilities on a regular basis, and to determine the number of juveniles each facility can safely contain on a regular basis. This determination shall include an analysis of the relationship of the number of juveniles that may be safely contained at any one time in any one facility to the offenses for which these juveniles are being adjudicated.

The Department of Human Resources and the Administrative Office of the Courts shall report the results of this study to the 1993 General Assembly by May 1, 1994, together with any proposals that would be of benefit in ensuring the best and safest use of secure custody.

Requested by: Representatives Nye, Easterling, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

CERTAIN ICF/MR FACILITIES' CERTIFICATE OF NEED BED LIMITATION EXEMPTION EXTENDED

Sec. 88. Those existing facilities that were granted a Certificate of Need to develop no more than 30 beds and that have applied for a Certificate of Need to expand to 32 beds prior to July 1, 1993, are exempt from the 30-bed limitation and may be issued a Certificate of Need for no more than 32 beds each. These additional beds for those facilities shall not be taken into account in deciding Certificate of Need allocations to other applicants in the same service area during the 1993 calendar year.

Requested by: Representatives Colton, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

COMMISSION FOR BLIND CHANGES

Sec. 89. (a) G.S. 143B-157 reads as rewritten:

"§ *143B-157. Commission for the Blind -- creation, powers and duties.*

There is ~~hereby~~ recreated the Commission for the Blind of the Department of Human Resources with the power and duty to adopt rules ~~and regulations to be followed in~~ governing the conduct of the State's rehabilitative programs for the blind ~~with the power and duty to~~

~~adopt, amend and rescind rules and regulations under and not inconsistent with the laws of the State~~ that are necessary to carry out the provisions and purposes of this Article.

(1) The Commission ~~for the Blind is authorized and empowered to adopt such rules and regulations that may be~~ shall adopt rules that are necessary and desirable for the programs administered by the Department of Human Resources as provided in Chapter 111 of the General Statutes of North Carolina.

~~(2) The Commission for the Blind shall have the power and duty to establish standards and adopt rules and regulations for aid to the needy blind as contained in Chapter 111 of the General Statutes of North Carolina.~~

(3) The Commission ~~is authorized and empowered to adopt such rules and regulations,~~ shall adopt rules, not inconsistent with the laws of this State, ~~as may be~~ that are required by the federal government for grants-in-aid for rehabilitative purposes for the blind ~~which~~ that may be made available ~~for~~ to the State ~~by~~ from the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(3a) The Commission shall review, analyze, and advise the Department regarding the performance of its responsibilities under the federal rehabilitation program in which the State participates, as it relates to the provision of services to the blind, particularly its responsibilities relating to the following:

a. Eligibility for the program;

b. The extent, scope, and effectiveness of the services provided; and

c. The functions performed by the Department that affect, or that have the potential to affect, the ability of individuals who are blind or visually impaired to achieve rehabilitative goals and objectives under the federal rehabilitation program;

(3b) The Commission shall advise the Department regarding preparation of applications, the State Plan, the strategic plan, amendments to these plans, the State needs assessments, and the evaluations required by the federal rehabilitation program;

(3c) The Commission shall, to the extent feasible, conduct a review and analysis (i) of the effectiveness of, and consumer satisfaction with, the functions performed by the

Department and other public and private entities responsible for performing functions for individuals who are blind or visually impaired, and (ii) of vocational rehabilitation services provided or paid for from funds made available through other public or private sources and provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals who are blind or visually impaired;

(3d) The Commission shall prepare and submit an annual report to the Governor, the Secretary, and the federal rehabilitation program, and make the report available to the public;

(3e) The Commission shall coordinate with other councils within the State, including the statewide Independent Living Council established under section 705 of the federal Rehabilitation Act, 294 U.S.C. §§ 720, *et seq.*, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1413(A)(12), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, and the State Mental Health Planning Council established pursuant to section 1916(e) of the Public Health Service Act, 42, U.S.C. § 300x-4(e);

(3f) The Commission shall advise the Department and provide for coordination with, and establishment of working relationships between, the Department and the Independent Living Council;

(3g) The Commission shall prepare, in conjunction with the Department, a plan for the provision of those resources, including staff and other personnel, that are necessary to carry out the Commission's function under this Part. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan. The agreed-upon resources shall be provided pursuant to G.S. 143B-14. To the extent that there is a disagreement between the Commission and the Department with regard to the resources necessary to carry out the functions of the Commission required by this Part, the Governor shall resolve the disagreement. The Department or other State agency shall not assign any other duties to the staff and other personnel who are assisting the Commission in carrying out its duties that would create a conflict of interest;

(4) The Commission ~~for the Blind shall adopt rules and regulations~~ shall adopt rules consistent with the provisions of this Chapter. All rules ~~and regulations~~ not inconsistent with the provisions of this Chapter heretofore adopted by the North Carolina State Commission for the Blind shall remain in full force and effect unless and until repealed or superseded by action of the recreated Commission for the Blind. All rules ~~and regulations~~ adopted by the Commission shall be enforced by the Department of Human Resources."

(b) G.S. 143B-158 reads as rewritten:

"*§ 143B-158. Commission for the Blind -- members; selection; quorum; compensation.*

The Commission for the Blind of the Department of Human Resources shall consist of 11 members appointed by the Governor. ~~The initial members of the Commission shall include the members of the existing Commission for the Blind who shall serve for a period equal to the remainder of their current terms on the existing Commission for the Blind, three of whose appointments expire July 2, 1974, three of whose appointments expire July 2, 1975, and three of whose appointments expire July 2, 1977.~~ No physician, no optometrist, no optician, no oculist, nor any other person who receives services or funds regulated by the Commission shall be qualified to serve on the Commission for the Blind. Any person who is presently a member of the Commission and is disqualified by reason of the preceding sentence shall be deemed to have resigned his position on the Commission. The Governor shall appoint a successor for the balance of the unexpired term. At all times at least ~~two~~ six members of the Commission shall be persons who are visually handicapped to the minimum extent of being legally blind. ~~At the end of the respective terms of office of the initial members of the Commission, their successors~~ The members of the Commission shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Human Resources."

(c) This section becomes effective August 1, 1993.

Requested by: Representatives Nye, Easterling, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

AREA AUTHORITY PLAN

Sec. 90. To the maximum extent possible, Area Mental Health Authorities are encouraged to develop service implementation plans in accordance with the long-range plans of the Mental Health Study Commission and with the involvement of local affected organizations. These plans may be used as the basis for future budget requests submitted by the Division.

The plans shall be ready for review by the Department and the Mental Health Study Commission by November 1, 1993, February 1, 1994, and May 1, 1994.

Requested by: Representatives Nye, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

CONSENT JUDGEMENT/FOCUS CLASS AGREEMENT/ THOMAS S.

Sec. 91. (a) Notwithstanding G.S. 114-2.1, the State may enter into the Focus Class/Evaluation Alternative Test Agreement in the case of Thomas S. et al. v. Britt, formerly Thomas S. et al. v. Flaherty, 699 F. Supp. 1178 (W.D.N.C. 1988).

(b) The consent judgment authorized under subsection (a) of this section is subject to G.S. 114-2.2.

Requested by: Representatives Nye, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

CAROLINA ACCESS CHANGE REPEALED

Sec. 92. Section 238 of Chapter 321 of the 1993 Session Laws is repealed.

Requested by: Senators Richardson, Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

DISTRIBUTION SPECIFICATIONS FOR AREA MENTAL HEALTH PROGRAM CAPITAL FUNDS

Sec. 93. (a) No area program shall receive more than ten percent (10%) of the total funds appropriated in the 1993-94 fiscal year by the General Assembly for area program capital needs.

(b) Capital funds awarded by the Department of Human Resources to area programs for projects in counties that fall within the last quartile of either per capita income, according to the North Carolina Data System 1990 Ranking, or of property valuation, according to the North Carolina Data System Ranking of 1990, shall not require a local match. The Department shall require a dollar-for-dollar local match for capital funds awarded for projects in all other counties.

(c) All area program capital grants are subject to the Department of Human Resources' approval of the grant application.

Requested by: Representatives Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

GOVERNOR MOREHEAD SCHOOL FUNDS

Sec. 93.1. Of the funds appropriated in this act to the Office of State Budget and Management, Reserve for Repairs and Renovations, for the 1993-94 fiscal year, the sum of two million seven hundred thousand dollars ($2,700,000) shall be transferred to the Department of Human Resources for repairs and renovations at the Governor Morehead School.

PART 23. DEPARTMENT OF AGRICULTURE

Requested by: Representatives Nesbitt, Fitch, Bowman, DeVane, Diamont, Senators Daniel, Plyler, Kaplan

REALLOCATION OF 1988 FUNDS FOR ROCKY MOUNT'S FARMER'S MARKET FOR ROCKY MOUNT BUSINESS DEVELOPMENT

Sec. 94. (a) The seven hundred thousand dollars ($700,000) appropriated to the Rocky Mount Business Development Authority for the agricultural complex located at Fountain Park in Section 137(a) of Chapter 738 of the 1987 Session Laws, as amended by Section 154 of Chapter 1086 of the 1987 Session Laws and Section 34 of Chapter 1100 of the 1987 Session Laws, the sum of seven hundred thousand dollars ($700,000) may be loaned to a city which is located in two counties so as to allow that city to establish a Farmer's Market in the vicinity of the old Fenner's Warehouse No. 1 on the North Church Street corridor.

(b) This no-interest loan shall be repaid by the city to the Rocky Mount Business Development Authority (RMBDA) over the next seven years at the rate of one hundred thousand dollars ($100,000) per year or at a rate necessary to support the cash flow requirement for planning and constructing a processing facility at Fountain Park.

(c) The Rocky Mount Business Development Authority (RMBDA) shall provide a grant of all interest accrued to date, less

expenses, on the seven hundred thousand dollar ($700,000) appropriation to the Rocky Mount/Edgecombe Community Development Corporation (RMECDC) for the South Washington Street Revitalization Project.

(d) The City of Rocky Mount shall organize the Rocky Mount Business Development Authority (RMBDA) such that the Authority assists in planning and construction of a vegetable and fruit processing facility in Fountain Park before January 1, 2001. This processing facility shall have the capability to, at least: cool, wash, wax, grade, sort, package, and store for transit the commercial produce of local farm families. The facility shall provide facilities for unloading harvested farm fruits and vegetables, loading surface transport with packaged fruits and vegetables, and supporting brokerage operations. RMBDA may use the funds repaid to it under subsection (b) of this section for the purposes of this subsection.

Requested by: Representatives Bowman, DeVane, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

WAREHOUSE ACT FUNDS

Sec. 95. (a) G.S. 106-435 reads as rewritten:

"*§ 106-435. Fund for support of system; collection and investment.*

In order to provide a sufficient indemnifying or guarantee fund to cover any loss not covered by the bonds hereinbefore mentioned, in order to provide the financial backing which is essential to make the warehouse receipt universally acceptable as collateral, and in order to provide that a State warehouse system intended to benefit all cotton growers in North Carolina shall be supported by the class it is designed to benefit, it is hereby declared: that on each bale of cotton ginned in North Carolina during the period from the ratification of this bill until June 30, 1922, twenty-five cents (25¢) shall be collected through the ginner of the bale and paid into the State treasury, to be held there as a special guarantee or indemnifying fund to safeguard the State warehouse system against any loss not otherwise covered. The State Tax Commission shall provide and enforce the machinery for the collection of this tax, which shall be held in the State treasury to the credit of the State warehouse system. Not less than ten per centum (10%) of the entire amount collected from the per bale tax shall be invested in United States government or farm loan bonds or North Carolina bonds, and the remainder may be invested in amply secured first mortgage notes or bonds to aid and encourage the establishment of warehouses operating under this system, and to aid and encourage the establishment of farm markets designed to serve the marketing, packaging, and grading needs for the sale and distribution of unprocessed farm commodities when adequate markets are not

otherwise provided. Such investments shall be made by the Board of Agriculture, with the approval of the Governor and Attorney General: Provided, such first mortgages shall be for not more than one-half the actual value of the warehouse property covered by such mortgages, and run not more than 10 years: Provided further, that the interest received from all investments shall be available for appropriation for capital projects and nonrecurring expenditures as provided in the bill making the appropriation, and for the administrative expense of carrying into effect the provisions of this law, including the employment of such persons and such means as the State Board of Agriculture in its discretion may deem necessary: Provided further, that the guarantee fund, raised under the provisions of sections 4907 to 4925 of the Consolidated Statutes of 1919, shall become to all intents and purposes a part of guarantee fund to be raised under this law and subject to all the provisions hereof."

(b) Of the funds available in accumulated interest from the North Carolina Warehouse Act Fund, the sum of six hundred thousand dollars ($600,000) shall be deposited into the General Fund as nontax revenues for the 1993-94 fiscal year to be used to support expenditures for capital projects or nonrecurring expenditures as provided in this act.

(c) There is appropriated from the North Carolina Warehouse Act Fund to the Department of Agriculture for fiscal year 1993-94 the sum of four hundred thousand dollars ($400,000) in accumulated interest, for non-recurring cotton promotion projects and activities in fiscal year 1993-94.

Requested by: Representatives Bowen, DeVane, Bowman, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

REALLOCATE FUNDS APPROPRIATED FOR AGRICULTURAL FACILITIES

Sec. 96. Of the funds appropriated to the Department of Agriculture in Section 4 of Chapter 1044 of the 1991 Session Laws for the Southeastern Farmers' Market - Shipping Point Facility, the sum of ninety thousand dollars ($90,000) shall be used as a grant-in-aid to the Town of Roseboro for water and sewer services and the sum of nine hundred ten thousand dollars ($910,000) shall be used as a grant-in-aid to Sampson County to be used for construction of a livestock sale facility.

Requested by: Representatives Redwine, DeVane, Bowman, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

AUTHORIZE THE AGRICULTURAL FINANCE AUTHORITY TO USE THE INTEREST FROM THE RESERVE FOR FARM LOANS FOR ADMINISTRATIVE EXPENSES

Sec. 97. Section 3 of Chapter 1011 of the 1985 Session Laws reads as rewritten:

"Sec. 3. Funds appropriated ~~in Section 2 of House Bill 2055 of the 1985 Session Laws~~ to the Department of Agriculture, Reserve for Farm Loans shall be used for the purposes set out in this act, other than the administration of Chapter 122D of the General Statutes. Interest on these funds and interest received from loans of these funds may be used for any of the purposes set out in this act, including the administration of Chapter 122D of the General Statutes."

PART 24. DEPARTMENT OF COMMERCE

Requested by: Representatives Bowman, DeVane, Jenkins, Dockham, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

RURAL TOURISM DEVELOPMENT FUNDS

Sec. 98. Of the funds appropriated in this act from the General Fund to the Department of Commerce for the 1993-94 fiscal year, the sum of two hundred thousand dollars ($200,000) shall be used for the Rural Tourism Development Grant Program. The Department shall establish and implement this Program to provide grants to local governments and nonprofit organizations to encourage the development of new tourism projects and activities in rural areas of the State. Grant funds shall not be allocated for projects or activities eligible to receive funds from the Department's Tourism Promotion Grant Program. The Secretary shall establish guidelines for eligibility to receive grants under the Rural Tourism Development Grant Program. No recipient or new tourism project shall receive a total of more than fifty thousand dollars ($50,000) of these grant funds for the 1993-94 fiscal year.

Requested by: Representatives H. Hunter, Bowman, DeVane, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

BIOTECHNOLOGY FUNDS FOR MINORITY UNIVERSITIES

Sec. 99. Of the funds appropriated in this act from the General Fund to the North Carolina Biotechnology Center for the 1993-94 fiscal year, the sum of one million dollars ($1,000,000) shall be used to develop a special biotechnology program initiative for North Carolina's Public Historically Black Universities and Pembroke State University. This program initiative is a means to get more funds to these institutions of higher education in the short run to help them develop their biotechnology programs and a means to develop a

mechanism to improve these institutions' capacity over the long term. The Center's special initiative shall, at a minimum, provide for:

(1) A range of program activities, including grants, designed to enhance the existing strengths and capabilities of Pembroke University, and the public Historically Black Universities;

(2) A Facilities and Infrastructure Review Committee to advise the Center on major program elements and priority projects that would be most helpful to these institutions; and

(3) A Program Advisory Panel with representation from these institutions to advise and make recommendations to the Center's President and Board of Directors on funding proposals under this initiative.

The Center shall report to the General Assembly by March 15, 1994, on the development and implementation of this special initiative.

In awarding grant funds pursuant to this section, the Center shall ensure that the grant funds are distributed equally among the eligible universities.

Requested by: Representatives Wainwright, Bowman, DeVane, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

PROMOTE TOURISM THROUGHOUT THE STATE

Sec. 100. Section 307 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 307. The Department of Commerce shall review its tourism advertising program and shall ensure that the program addresses the promotion of tourism in ~~rural~~ all areas of the ~~State.~~ State and particularly the State's minority communities. In expending funds appropriated for tourism advertising promotion, the Department shall ensure that minority-owned businesses are given appropriate consideration. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

Requested by: Representatives H. Hunter, Bowman, DeVane, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

MCNC CAPITAL EQUIPMENT

Sec. 101. (a) Of the funds appropriated in this act from the General Fund to MCNC, the sum of four million five hundred thousand dollars ($4,500,000) for the 1993-94 fiscal year shall be allocated as follows:

(1) $900,000 for the Telecommunications Program for video and data network equipment.

(2) $1,000,000 for the Microelectronics Program for design and test equipment and for computer chip fabrication and packaging equipment.

(3) $600,000 for the Supercomputer Program for additional computer work stations and peripheral equipment.

(4) $2,000,000 to conduct joint research and development projects on networking technology with the MCI Communications Corporation and with N.C. State University and Duke University. Of this amount, $1,000,000 shall be held in a reserve in the Office of State Budget and Management. Release of the funds in this reserve shall be contingent upon the location of MCI Communications Corporation's Billing Center in North Carolina by June 30, 1994. If the condition for the release of funds from the reserve is not met, those funds shall revert to the General Fund.

(b) MCNC shall provide the Joint Legislative Commission on Governmental Operations with quarterly reports on the following:

(1) Use and benefits of the funds appropriated under this section, and

(2) Status of the relocation activity of the MCI Communications Corporation's Billing Center.

The reports required under this subsection shall be included in the MCNC quarterly reports to the Joint Legislative Commission on Governmental Operations required under Section 295 of Chapter 321 of the 1993 Session Laws.

Requested by: Representatives Nesbitt, DeVane, Bowman, Diamont, Senators Daniel, Plyler, Kaplan

STUDY EXPANSION OF ECONOMIC DEVELOPMENT COMMISSIONS

Sec. 102. (a) The General Assembly makes the following findings:

(1) The economic development of the State as a whole will be enhanced if all counties participate in economic development efforts conducted on a regional basis, and if the unique economic needs of the State's minority communities are identified and addressed;

(2) Regional economic development commissions have been established to assess the economic needs unique to the regions of the State they serve and to determine the economic development efforts appropriate to meet those needs;

(3) The General Assembly has funded and intends to continue support for economic development in the eastern region of the State through the Global TransPark;

(4) State funding for regional economic development commissions should be distributed in such a way as to ensure equity in economic growth potential among all regions and minority communities of the State. To that end, a funding formula should be developed based in part on distress factors established under G.S. 143B-437A(b).

(b) In view of the findings stated in subsection (a) of this section, the Department of Commerce shall do the following:

(1) Survey existing regional economic development commissions and determine the need for additional regional commissions to ensure that all areas of the State are appropriately served;

(2) Develop a plan to:

a. Create additional regional economic development commissions necessary to serve the State;

b. Establish a statewide economic development commission to identify and address the economic needs of minority communities of the State; and

c. Establish linkages between the statewide minority economic development commission and the regional commissions, and among the regional commissions.

(3) Establish a formula for funding regional economic development commissions based in part on the distress factors established under G.S. 143B-437A(b).

The Secretary shall submit the plan required by this section to the General Assembly not later than March 1, 1994, by providing a copy to the Speaker of the House of Representatives and to the President Pro Tempore of the Senate.

Requested by: Representatives Nesbitt, Diamont, Bowman, DeVane, Senators Daniel, Plyler, Kaplan

STUDY ON ECONOMIC INCENTIVES TO LURE INDUSTRY

Sec. 103. (a) There is created the Legislative Study Commission on Economic Incentives to Lure Industry. The Commission shall consist of 10 members: five Representatives appointed by the Speaker of the House of Representatives and five Senators appointed by the President Pro Tempore of the Senate.

(b) The Speaker of the House of Representatives shall designate one Representative as cochair and the President Pro Tempore of the Senate shall designate one Senator as cochair.

(c) The Commission shall study the use of economic incentives to lure industry to the State. In the course of its study, the Commission shall consider:

(1) The experience of this State and other states in using economic incentives to lure industry;
(2) The long- and short-term impacts of using economic incentives to lure industry;
(3) The costs and benefits of using economic incentives to lure industry;
(4) Whether some industries may be moving from state to state solely to receive the economic incentives;
(5) What rules would be appropriate to provide adequate State control over a program for using economic incentives to lure industry;
(6) Complications inherent in a program that requires that public business be carried on in private negotiations;
(7) The amount of State resources that should be dedicated to these programs;
(8) The impact that erosion of the tax base from tax incentives will have on the State's fiscal condition and taxing structure;
(9) Ways to ensure that economic incentives to lure industry are used to attract industry equitably throughout the State;
(10) Ways to ensure that economic incentives to lure industry are used to attract industries that pay high wages; and
(11) The extent to which incentives may require future recurring or operating budget appropriations by the State.

(d) The Commission shall submit a final report of its findings and recommendations to the General Assembly on or before April 15, 1994, by filing the report with the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Upon filing its final report, the Commission shall terminate.

(e) The Commission, while in the discharge of official duties, may exercise all the powers provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairmen. The Commission may meet in the Legislative Building or the Legislative Office Building.

(f) Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.

(g) The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. The Legislative Services Commission, through the Legislative Administrative Officer, shall assign professional staff to assist in the work of the Commission.

The House of Representatives and the Senate supervisors of clerks shall assign clerical staff to the commission or committee, upon the direction of the Legislative Services Commission. The expenses relating to clerical employees shall be borne by the Commission established by this section.

(h) When a vacancy occurs in the membership of the Commission, the vacancy shall be filled by the same appointing officer who made the initial appointment.

(i) All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

(j) The Legislative Services Commission may use one hundred thousand dollars ($100,000) of the funds appropriated to the General Assembly for the 1993-94 fiscal year for the expenses of the Commission.

Requested by: Representatives Bowman, DeVane, H. Hunter, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

ECONOMIC DEVELOPMENT FUNDS

Sec. 104. (a) Definition. -- For purposes of this section, the term "community development corporation" means a nonprofit corporation:

(1) Chartered pursuant to Chapter 55A of the General Statutes;

(2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;

(3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;

(4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and

(5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the target community.

(b) Community Development Grants. -- Of the funds appropriated in this act from the General Fund to the Rural Economic Development Center, Inc., the sum of one million five hundred fifty thousand dollars ($1,550,000) for the 1993-94 fiscal year shall be used to support community development projects and activities within the State's minority community. Any community development corporation as defined in this section is eligible to apply for funds

under this section. The Rural Economic Development Center, Inc. shall establish and implement performance-based criteria for determining which community development corporations will receive a grant and the grant amounts.

The Rural Economic Development Center, Inc. shall allocate these funds as follows:

(1) $1,300,000 for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;

(2) $100,000 for direct grants to local community development corporations that have not previously received State funds for this purpose to support operations and project activities; and

(3) $150,000 for the Community Development Housing Counseling Demonstration Project.

The North Carolina Rural Economic Development Center, Inc., shall establish and implement performance-based criteria for determining which community development corporations will receive a grant and the grant amounts. The North Carolina Rural Economic Development Center, Inc. shall report quarterly on the use of these funds.

(c) North Carolina Community Development Initiative, Inc. -- Of the funds appropriated in this act from the General Fund to the Rural Economic Development Center, Inc. for the 1993-94 fiscal year, the sum of two million dollars ($2,000,000) shall be allocated to the North Carolina Community Development Initiative, Inc. The Initiative shall provide operating and project activity grants to mature community development corporations that have demonstrated project and organizational capacity.

The North Carolina Community Development Initiative, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(d) North Carolina Association of Community Development Corporations. -- Of the funds appropriated in this act from the General Fund to the Rural Economic Development Center, Inc. the sum of two hundred thousand dollars ($200,000) for the 1993-94 fiscal year shall be allocated to the North Carolina Association of Community Development Corporations to provide training, technical assistance, resource development, project assistance, and support for local community development corporations statewide. The North Carolina Association of Community Development Corporations shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(e) North Carolina Minority Credit Union Support Center, Inc. -- Of the funds appropriated in this act from the General Fund to the Rural Economic Development Center, Inc., the sum of three hundred thousand dollars ($300,000) for the 1993-94 fiscal year shall be allocated to the North Carolina Minority Credit Union Support Center, Inc., to provide technical assistance to community-based credit unions. The Rural Economic Development Center, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(f) Microenterprise Loan Program. -- Of the funds appropriated in this act from the General Fund to the Rural Economic Development Center, Inc., the sum of six hundred fifty thousand dollars ($650,000) for the 1993-94 fiscal year shall be used to support the loan fund and operations of the Microenterprise Loan Program. The Rural Economic Development Center, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(g) Administrative costs. -- Of the funds appropriated in this act from the General Fund to the Rural Economic Development Center, Inc., the sum of fifty thousand dollars ($50,000) for the 1993-94 fiscal year shall be used to cover expenses in administering this act.

(h) Center for Community Self-Help. -- Of the funds appropriated in this act from the General Fund to the Department of Commerce for the 1993-94 fiscal year, the sum of one million dollars ($1,000,000) shall be allocated to the Center for Community Self-Help for the same purposes and with the same restrictions and requirements, except for the requirement to match funds dollar-for-dollar, as provided in Section 308 of Chapter 321 of the 1993 Session Laws. Funds allocated pursuant to this section shall be in addition to those allocated under Section 308 of Chapter 321 of the 1993 Session Laws. The Department of Commerce shall disburse this appropriation within 15 working days of the receipt of a request for the funds from the Center for Community Self-Help.

(i) Of the funds appropriated in this act from the General Fund to the Department of Commerce, the sum of three hundred fifty thousand dollars ($350,000) for the 1993-94 fiscal year shall be allocated to the North Carolina Institute of Minority Economic Development to foster minority economic development within the State through policy analysis, information and technical assistance, and resource expansion. The North Carolina Institute of Minority Economic Development shall:

(1) Update, maintain, and disseminate the annual survey and directory of minority-owned businesses;

(2) Update, maintain, and disseminate the minority profile of the State;
(3) Support a model minority business technical assistance program in conjunction with the Fuqua School of Business at Duke University;
(4) Support a specialized and targeted training program on the unique needs and requirements of minority-owned businesses; and
(5) Increase the number of Institute-sponsored interns.

The North Carolina Institute of Minority Economic Development shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(j) The Office of State Budget and Management, the Department of Commerce, and the Rural Economic Development Center, Inc., shall ensure that funds allocated under this section to the following organizations are disbursed within 15 working days of the receipt of a request for the funds from the organization:

(1) North Carolina Community Development Initiative, Inc.,
(2) North Carolina Association of Community Development Corporations,
(3) The Center for Community Self-Help,
(4) Community Development Housing Counseling Demonstration Project,
(5) North Carolina Minority Credit Union Support Center, Inc.,
(6) The Microenterprise Loan Program, and
(7) The North Carolina Institute of Minority Economic Development.

Requested by: Representatives Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

RURAL ECONOMIC DEVELOPMENT PILOT PROGRAM IMPLEMENTATION

Sec. 104.1. (a) Supplemental Funding Pilot Project. -- Of the funds appropriated in this act from the General Fund to the Rural Economic Development Center, Inc., the sum of one million six hundred fifty thousand dollars ($1,650,000) for the 1993-94 fiscal year shall be used for a pilot program to provide supplemental funding for matching requirements for economic development in economically depressed areas. The Center shall use the funds to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for necessary economic development projects and activities in economically depressed areas. The grant recipients shall be selected on the basis of need.

(a1) Definitions. -- The following definitions apply in this subsection:

(1) Economically depressed area. -- Any of the following:

a. A county that the Secretary of Commerce has designated one of the most economically depressed counties in the State pursuant to G.S. 143B-437A.

b. That part of a rural county whose poverty rate is at least one hundred fifty percent (150%) of the State poverty rate. For the purpose of this subsection, the poverty rate is the percentage of the population with income below the latest annual federal poverty guidelines issued by the United States Department of Health and Human Services.

c. That part of a rural county whose rate of unemployment is at least double the State rate of unemployment.

d. That part of a rural county that experiences an actual or imminent loss of jobs in a number that is equal to or exceeds five percent (5%) of the total number of jobs in the part.

(2) Rural county. -- A county that the United States Office of Management and Budget has not designated as a metropolitan county.

(a2) Reports. -- The Rural Economic Development Center, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Department of Commerce on the use of the funds allocated in this subsection and on the outcomes achieved by the pilot program.

(b) Appropriations. -- Of the funds appropriated in this act from the General Fund to the Rural Economic Development Center, Inc., the sum of six hundred thousand dollars ($600,000) for the 1993-94 fiscal year shall be used for a pilot program to provide grants to depressed counties and municipalities to enable them to acquire short-term capacity for immediate needs for economic development planning and writing federal grant applications. The Center shall establish standards for determining each local government's needs and shall make grants on the basis of need. The Center shall report to the Joint Select Fiscal Trends and Reform Commission on or before October 1, 1993, on the standards it has established for determining need. The Center shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Department of Commerce on the use of the funds allocated in this subsection and on the outcomes achieved by the pilot program.

(c) Child Day Care Loan Guarantee Act of 1993. -- There is established the Child Day Care Loan Guarantee Act of 1993. The

purpose of this act is to encourage lenders to make loans available to child day care providers for the purpose of financing the development and expansion of child day care centers and homes in low-income, distressed counties of the State and to increase the quality and availability of child day care and employment opportunities in these areas.

(c1) Definitions. -- The following definitions apply in this act:

(1) Center. -- North Carolina Rural Economic Development Center, Inc.

(2) Child day care provider. -- A person providing or planning to provide child day care, as defined in G.S. 110-86.

(3) Community Development Corporation. -- An organization that:

a. Is a neighborhood-based nonprofit corporation;

b. Is controlled by area residents;

c. Directs community development initiatives in economically distressed areas; and

d. Is characterized by comprehensive community programs designed to enhance the overall quality of life through the elimination of blight and the economic empowerment of area residents.

(4) Department. -- The Department of Commerce.

(5) Distressed counties. -- Severely distressed counties of the State as designated by the Secretary of Commerce under G.S. 105-130.40(c) or G.S. 105-151.17(c), or both.

(6) Fund. -- The Child Day Care Loan Guarantee Fund.

(c2) Child Day Care Loan Guarantee Fund. -- The Center shall establish the Child Day Care Loan Guarantee Fund, which shall be used to guarantee loans made by lenders to qualifying child day care providers to finance the development or expansion of child day care centers or homes in distressed counties. Interest and other investment income shall accrue to the Fund.

Notwithstanding any law to the contrary, the principal and any income to the Fund may be used to make loan guarantees under this act or pay the Center's cost of administering this act in accordance with Section 9 of this act.

(c3) Center's responsibilities. -- The Center shall:

(1) Administer the Fund established in Section 4 of this act.

(2) Develop and manage a loan approval process in accordance with policies established by the Center.

(3) Make its best effort to ensure that providers of small business technical assistance in North Carolina, including, but not limited to, the Small Business and Technology Development Centers, the Small Business Centers of the

Department of Community Colleges, and Community Development Corporations, provide fair and equitable business counseling to applicants for loan guarantees under this act.

(4) Monitor projects to ensure compliance with applicable State and federal laws, rules, and relevant court decisions.

(5) Develop procedures for managing defaults and for enforcing the obligations of borrowers to repay loans.

(6) Actively seek additional non-State funds to leverage the State dollars appropriated to the Fund on the basis of three non-State dollars to every State dollar.

(7) Report quarterly to the Joint Legislative Commission on Governmental Operations on the implementation of this act, the results and operation of the program, efforts to secure matching funds, and the use of appropriations for this program.

(c4) Loan guarantee standards. --

(1) In making loan guarantees under this act, the Center shall give priority to child day care providers that serve or intend to serve distressed counties that demonstrate the greatest need for child day care services. It shall also give priority to the geographic distribution of loan guarantees.

(2) Loans that are eligible for guarantees under this act may be made for only the following reasons:
   a. The construction, purchase, lease, or improvement of buildings or other facilities.
   b. The purchase or improvement of land.
   c. The purchase or lease of equipment, including vehicles.
   d. Start-up and expansion costs.
   e. Initial operating expenses.

(3) Loan guarantees under this act are subject to the following restrictions:
   a. The Center shall not grant a loan guarantee greater than seventy-five thousand dollars ($75,000).
   b. The Center shall not guarantee more than eighty percent (80%) of a loan.
   c. The Center shall not issue an aggregate amount of loan guarantees that exceeds five times the amount deposited in the Fund.

(4) The Center shall use the following criteria in its determination of whether to grant a loan guarantee to a child day care provider who has a history of operating or owning a child day care center, child day care home, or both:
   a. Quality of programming and staff.

b. Ratio of children to staff.
c. Quality of facilities.
d. Degree of coordination with Head Start or other programs.
e. Quality of administrative and financial management.
f. History of compliance with child day care licensing or registration requirements.
g. Ability to repay.

(5) An applicant for a guarantee under this act shall supply the Center with the following:
a. A detailed description of the project.
b. A disclosure of additional funds, if any, that are available to the applicant.
c. Information that relates to the inability of the applicant to obtain adequate financing on reasonable terms through normal lending channels, such as a letter from a lender certifying that it would not grant credit without the loan guarantee.
d. Credit references, if available, for the applicant.
e. A five-year projected budget.
f. A comprehensive business plan that includes the applicant's plans in the areas of:
i. Debt reduction;
ii. Marketing;
iii. Staff training;
iv. Facility improvement; and
v. Program improvement.
g. Other information that the Center requests.

(c5) Defaults. -- Upon default by a borrower, the lender, consistent with its current collections policies, shall exercise reasonable diligence in its collection efforts before the Fund is liable for the default.

(c6) Conflict of interest. -- Any employee, officer, or Board member of the Center who is employed by, holds any paid official relation to, or has any financial interest in any child day care enterprise for which the Center is considering the granting of, or already has granted, a guarantee under this act shall disclose the relationship and shall not vote or otherwise participate in any decision to grant the guarantee or otherwise affect that enterprise.

(c7) Appropriations. -- Of the funds appropriated in this act to the Rural Economic Development Center, Inc., from the General Fund the sum of five hundred thousand dollars ($500,000) for the 1993-94 fiscal year shall be used to implement this subsection.

(d) Of the funds appropriated in this act from the General Fund to the Rural Economic Development Center, Inc., for the 1993-94 fiscal year, the sum of seventy-five thousand dollars ($75,000) shall be used for on-going job training programs and shall be allocated as follows:

(1) Twenty-five thousand dollars ($25,000) to the Opportunities Industrialization Center of Wilson, Inc.;
(2) Twenty-five thousand dollars ($25,000) to the Opportunities Industrialization Center, Inc., in Rocky Mount;
(3) Twenty-five thousand dollars ($25,000) to the Pitt-Greenville Opportunities Industrialization Center, Inc.

The Rural Economic Development Center, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of funds allocated in this subsection.

PART 25. DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Requested by: Representatives Gottovi, Bowman, DeVane, Nye, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

AGRICULTURE COST SHARE PROGRAM FUNDS

Sec. 105. Of the funds appropriated to the Department of Environment, Health, and Natural Resources, Division of Soil and Water Conservation, for the Agriculture Cost Share Program for Nonpoint Source Pollution Control for the 1993-94 fiscal year, the sum of forty thousand dollars ($40,000) shall be used to install best management practices to protect water quality, including tide gates, water control structures, and waste management measures in rural environs, in the subbasin of the Cape Fear River and Atlantic drainage east of Cypress Creek and north of Walden Creek, under the Rural Clean Water Demonstration Program and in accordance with the match and program requirements specified in G.S. 143-215.74(b)(6).

Requested by: Representatives Hackney, Barnes, DeVane, Bowman, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

TECHNICAL ASSISTANCE GRANTS

Sec. 106. Notwithstanding the limitations of G.S. 104G-19(d), funds appropriated in this act to the Department of Environment, Health, and Natural Resources may be used to provide technical assistance grants in the amount of one hundred thousand dollars ($100,000) each to Richmond, Chatham, and Wake Counties for their site designation review committee.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Gottovi, DeVane, Bowman, Nesbitt, Diamont

WATER RESOURCES DEVELOPMENT PROJECTS FUNDS

Sec. 107. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources for the 1993-94 fiscal year the sum of seven million nine hundred eight thousand dollars ($7,908,000) shall be used for water resources development projects, and the sum of one million one hundred eighty thousand dollars ($1,180,000) shall be used for small watershed projects. The Department shall allocate funds for the following projects whose estimated costs are as indicated:

(1)	Wilmington Harbor Deepening Study	$ 612,000
(2)	Morehead City Harbor Deepening	3,825,000
(3)	Jordan Lake Water Supply Repayment	130,000
(4)	Wilmington Harbor Ocean Bar Deepening	1,016,000
(5)	Aquatic Plant Control	150,000
(6)	Wrightsville Beach Renourishment	400,000
(7)	Wanchese Channel Maintenance	280,000
(8)	State-Local Projects	300,000
(9)	North Channel Maintenance Dredging	523,000
(10)	Hamlet City Lake	377,000
(11)	Cape Fear Above Wilmington Channel Maintenance	100,000
(12)	Wilmington Harbor 25-feet Project	125,000

(13)	Dare County Beaches	70,000
(14)	Limestone Creek (Duplin County)	180,000
(15)	Deep Creek (Yadkin County)	250,000
(16)	Town Fork (Stokes County)	400,000
(17)	Meadow Branch (Robeson County)	350,000.

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1993-94 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund:

(1) Corps of Engineers project feasibility studies, or
(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1993-94, or
(3) State-local Water Resources Development Projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1994-95 fiscal year.

(c) Beginning October 1, 1993, the Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include:

(1) All projects listed in this section;
(2) The estimated cost of each project;
(3) The date that work on each project began or is expected to begin;
(4) The date that work on each project was completed or is expected to be completed; and
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

FALLS LAKE WATERSHED STUDY

Sec. 107.1. The scope and parameters of the Falls Lake Watershed Study for which funds have been appropriated in this act in a reserve in the Department of Environment, Health, and Natural Resources for the 1993-94 fiscal year, may be established by agreement among the governing boards of Wake and Durham Counties and the Cities of Durham and Raleigh. If these governing boards are unable to agree upon the scope and parameters of the study by October 1, 1993, then the Secretary of Environment, Health, and Natural Resources shall establish them.

Requested by: Representatives Bowman, DeVane, J. Preston, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

BOARDS OF HEALTH FUNDS

Sec. 108. The Department of Environment, Health, and Natural Resources may, for the 1993-94 fiscal year, use up to one hundred thousand dollars ($100,000) for a grant-in-aid to the Association of North Carolina Boards of Health for continuing board of health orientation, leadership, and educational development programs. The allocation authorized under this section shall be made from funds appropriated to the Department in Section 3 of Chapter 900 of the 1991 Session Laws for the purposes specified in Section 168(e) of that Chapter.

Requested by: Representatives Bowman, DeVane, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

IMMUNIZATION PROGRAM FUNDING

Sec. 109. (a) Of the funds appropriated in Chapter 321 of the 1993 Session Laws from the General Fund to the Department of Environment, Health, and Natural Resources for the 1993-94 fiscal year for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of up to one million dollars ($1,000,000) may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

(1) Outreach efforts at the State and local levels to improve service delivery of vaccines. Outreach efforts may include educational seminars, media advertising, support services to parents to enable children to be transported to clinics, longer operating hours for clinics, and mobile vaccine units; and

(2) Continued development of an automated immunization registry.

(b) Funds authorized to be used for immunization efforts under subsection (a) of this section shall not be used to fund additional State positions in the Department of Environment, Health, and Natural Resources.

(c) The Department of Environment, Health, and Natural Resources shall not obligate or expend funds authorized for the purposes stated in subsection (a) of this section until the Department has prepared and submitted for review to the Joint Legislative Commission on Governmental Operations the eight-year plan for implementation of the statewide immunization program required under Section 287 of Chapter 321 of the 1993 Session Laws. In addition to the requirements of Section 287 of Chapter 321 of the 1993 Session Laws, the eight-year plan shall address planned expenditures and immunization projects and activities identified under subsection (a) of this section.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

PARTNERSHIP FOR THE SOUNDS

Sec. 110. The funds appropriated in this act to the Department of Environment, Health, and Natural Resources for the 1993-94 fiscal year for the Partnership for the Sounds shall be used to provide architectural, engineering, and development services for the design and construction of the Estuarine Educational Center in Beaufort County, the Lake Mattamuskeet Lodge in Hyde County, and the Walter B. Jones Center for the Sounds in Tyrrell County. Up to sixty thousand dollars ($60,000) of these funds may be used for contracted personal services.

Requested by: Representatives Redwine, Bowman, DeVane, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

EXPAND/EXTEND BEAVER CONTROL PROGRAM

Sec. 111. (a) Subsection (b) of Section 69 of Chapter 1044 of the 1991 Session Laws reads as rewritten:

"(b) The Beaver Damage Control Advisory Board shall develop a pilot program to control beaver damage on private and public lands. Bladen, Brunswick, Columbus, Pender, Robeson, and Sampson Counties shall participate in the pilot program. The Beaver Damage Control Advisory Board shall act in an advisory capacity to the Wildlife Resources Commission in the implementation of the program. In developing the program, the Board shall:

(1) Orient the program primarily toward public health and safety and toward landowner assistance, providing some relief to

landowners through beaver control and management rather than eradication;

(2) Develop a priority system for responding to complaints about beaver damage;

(3) Develop a system for documenting all activities associated with beaver damage control, so as to facilitate evaluation of the program;

(4) Provide educational activities as a part of the program, such as printed materials, on-site instructions, and local workshops;

(5) Provide for the hiring of personnel necessary to implement beaver damage control activities, administer the pilot program, and set salaries of personnel;

(6) Evaluate the costs and benefits of the program that might be applicable elsewhere in North Carolina.

Upon the conclusion of the pilot program on December 1, ~~1993,~~ 1994, the Board shall issue a report to the Wildlife Resources Commission on the results of the program, including recommendations on the feasibility of continuing the program in participating counties and the desirability of expanding the program into other counties."

(b) Subsection (h) of Section 69 of Chapter 1044 of the 1991 Session Laws reads as rewritten:

"(h) Subsections (a) through (d) of this section expire December 1, ~~1993.~~ 1994."

(c) Of the funds appropriated to the Wildlife Resources Commission in this act for the 1993-94 fiscal year, the sum of one hundred forty-six thousand dollars ($146,000) shall be used to provide the State share necessary to continue the beaver damage control pilot program established by Section 69 of Chapter 1044 of the 1991 Session Laws in Bladen, Brunswick, Columbus, Pender, Robeson, and Sampson Counties, provided the sum of twenty-five thousand dollars ($25,000) in federal funds is available to provide the federal share. These funds shall be matched by four thousand dollars ($4,000) of local funds from each of the six participating counties.

Requested by: Representatives DeVane, Bowman, R. Hunter, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

PARKS CAPITAL IMPROVEMENTS

Sec. 112. Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act for the 1993-94 fiscal year, the sum of two million one hundred thousand dollars ($2,100,000) shall be used for land acquisition, maintenance, repairs, renovation, improvements related to health, safety, and access, and

construction at the State parks and recreation areas. Land acquisition funded under this section shall be limited to the purchase of inholdings, corridor linkages, and critical areas within the existing park boundaries or buffer areas. Prior to expending or obligating any of the funds allocated by this section, the Department shall report to the Joint Legislative Commission on Governmental Operations and to the Office of State Budget and Management on the proposed use of the funds.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont
STATE PARKS

Sec. 113. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources for land purchase in the State Parks System, the sum of up to fifty thousand dollars ($50,000) may be spent by the Division of Parks and Recreation for operating expenses associated with the acquisition of land.

Requested by: Senators Cochrane, Smith, Tally, Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont
FORESTRY HEADQUARTERS

Sec. 114. Of the funds appropriated in this act from the General Fund to the Department of Environment, Health, and Natural Resources, the sum of one million four hundred forty-eight thousand one hundred dollars ($1,448,100) for the 1993-94 fiscal year shall be used to replace District 6 Headquarters in Fayetteville and for county headquarters in Davidson, Graham, Henderson, Mitchell, Scotland, and Wayne counties. Funds remaining after these expenditures shall be used for needed repair or replacement of county headquarters in other counties. The Department may use force account construction for the Graham County project.

Requested by: Representatives DeVane, Bowman, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan
FIRE TOWER TRANSFER

Sec. 115. Notwithstanding the provisions of G.S. 146-74, the Division of Forest Resources, Department of Environment, Health, and Natural Resources, shall transfer in fee simple by gift the East Robeson Fire Tower and the approximately .91827 acres of land on which the tower is located approximately eight miles east of Lumberton on Highway 41 in East Howellsville Township, Robeson County, this being the property described in the deed dated March 7, 1935, and recorded in Deed Book 8-N, page 219, Robeson County

Registry to the East Howellsville Volunteer Fire Department, Inc. The transfer under this section shall be evidenced by a deed executed in accordance with G.S. 146-75 and registered in accordance with G.S. 146-77.

Requested by: Representatives Colton, DeVane, Bowman, Nesbitt, Diamont, Senators Daniel, Plyler, Kaplan

TRANSFER MUSEUM OF NATURAL SCIENCES

Sec. 116. (a) The statutory authority, powers, duties, and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of (i) the North Carolina State Museum of Natural Sciences, and of (ii) the Advisory Commission established in Article 40 of Chapter 143 of the General Statutes for the North Carolina State Museum of Natural Sciences, are transferred from the Department of Agriculture to the Department of Environment, Health, and Natural Resources. This transfer has all of the elements of a Type I transfer as defined by G.S. 143A-6.

(b) Article 40 of Chapter 143 of the General Statutes, G.S. 143-370 through G.S. 143-373, is recodified as Part 29 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-344.18 through G.S. 143B-344.21.

(c) G.S. 143A-66 is repealed.

(d) G.S. 106-22(15) is repealed.

(e) G.S. 143B-279.2, as amended by Chapter 321 of the 1993 Session Laws, reads as rewritten:

"*§ 143B-279.2. Department of Environment, Health, and Natural Resources -- duties.*

It shall be the duty of the Department:

(1) To provide for the protection of the environment;

(1a) To administer the State Outer Continental Shelf (OCS) Task Force and coordinate State participation activities in the federal outer continental shelf resource recovery programs as provided under the OCS Lands Act Amendments of 1978 (43 USC §§ 1801 *et seq.* and the OCS Lands Act Amendments of 1986 (43 USC §§ 1331 et seq.).

(2) To provide for the protection and enhancement of the public health; ~~and~~

(2a) To provide and keep a museum or collection of the natural history of the State and to maintain the North Carolina Biological Survey; and

(3) To provide for the management of the State's natural resources."

(f) Part 29 of Article 7 of Chapter 143B of the General Statutes, as recodified in Section 2 of this act, reads as rewritten:

"Part 29. Advisory Commission for
~~State Museum of Natural History.~~
North Carolina State Museum of Natural Sciences.

"§ *143B-344.18. Commission created; membership.*

There is ~~hereby~~ created an Advisory Commission for the ~~Museum of Natural History~~ North Carolina State Museum of Natural Sciences which shall determine its own organization. It shall consist of at least nine members, which shall include the Director of the ~~Museum of Natural History,~~ North Carolina State Museum of Natural Sciences, the Commissioner of Agriculture, the State Geologist and Secretary of Environment, Health, and Natural Resources, the Director of the Institute of Fisheries Research of the University of North Carolina, the Director of the Wildlife Resources Commission, the Superintendent of Public Instruction, or qualified representative of any or all of the above-named members, and at least three persons representing the East, the Piedmont, ~~[and]~~ and the Western areas of the State. Members appointed by the Governor shall serve for terms of two years with the first appointments to be made effective September 1, 1961. Any member may be removed by the Governor for cause.

"§ *143B-344.19. Duties of Commission; meetings, formulation of policies and recommendations to Governor and General Assembly.*

It shall be the duty of the Advisory Commission for the ~~Museum of Natural History~~ North Carolina State Museum of Natural Sciences to meet at least twice each year, to formulate policies for the advancement of the ~~said~~ Museum, to make recommendations to the Governor and to the General Assembly concerning the Museum, and to assist in promoting and developing wider and more effective use of the ~~Museum of Natural History~~ North Carolina State Museum of Natural Sciences as an educational, scientific and historical exhibit.

"§ *143B-344.20. No compensation of members; reimbursement for expenses.*

Members of the Advisory Commission shall serve without compensation and shall be reimbursed for actual expenses incurred while in attendance at meetings of the Commission at the same rate as that established for reimbursement of State employees. Payment for such reimbursement for actual expense shall be made from the Contingency and Emergency Fund.

"§ *143B-344.21. Reports to General Assembly.*

The Commission shall prepare and submit to the ~~1963~~ 1995 General Assembly, and to each succeeding General Assembly, a report outlining the needs of the ~~State Museum of Natural History,~~

North Carolina State Museum of Natural Sciences and their recommendation for improvement of the effectiveness of the ~~said State Museum of Natural History~~ North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth."

(g) G.S. 14-419 reads as rewritten:

"*§ 14-419. Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.*

In any case in which any law-enforcement officer or animal control officer has reasonable grounds to believe that any of the provisions of this Article have been or are about to be violated, it shall be the duty of such officer and he is hereby authorized, empowered, and directed to immediately investigate such violation or impending violation and to forthwith seize the reptile or reptiles involved, and all such officers are hereby authorized and directed to deliver such reptiles to the ~~Museum of Natural History~~ North Carolina State Museum of Natural Sciences or to its designated representative for examination and test for the purpose of ascertaining whether said reptiles contain venom and are poisonous. If the ~~Museum of Natural History~~ North Carolina State Museum of Natural Sciences or its designated representative finds that said reptiles are dangerously poisonous, the ~~Museum of Natural History~~ North Carolina State Museum of Natural Sciences or its designated representative shall be empowered to dispose of said reptiles in a manner consistent with the safety of the public; but if ~~said~~ the Museum or its designated representative find that the reptiles are not dangerously poisonous, and are not and cannot be harmful to human life, safety, health or welfare, then it shall be the duty of such officers to return the said reptiles to the person from whom they were seized within five days."

(h) G.S. 14-420 reads as rewritten:

"*§ 14-420. Arrest of persons violating provisions of Article.*

If the examination and tests made by the ~~Museum of Natural History~~ North Carolina State Museum of Natural Sciences or its designated representative as provided herein show that such reptiles are dangerously poisonous, it shall be the duty of the officers making the seizure, in addition to destroying such reptiles, also to arrest all persons violating any of the provisions of this Article."

(i) G.S. 106-202.17(b) reads as rewritten:

"(b) The Scientific Committee shall consist of the Directors of The University of North Carolina at Chapel Hill Herbarium, the North Carolina State University Herbarium, the North Carolina Botanical Garden of The University of North Carolina at Chapel Hill, the ~~North Carolina Museum of Natural History~~ North Carolina State Museum of Natural Sciences and the North Carolina Natural Heritage Program of the Department of Environment, Health, and Natural Resources or

their designees, a representative of the North Carolina Association of Nurserymen, Inc., appointed by the Commissioner, and a representative of the Garden Club of North Carolina, Incorporated, the North Carolina Chapter of the Nature Conservancy or the North Carolina Wild Flower Preservation Society, Inc., appointed by the Commissioner. Members shall serve for three-year terms and may succeed themselves."

(j) G.S. 147-50 reads as rewritten:

"§ *147-50. Publications of State officials and department heads furnished to certain institutions, agencies, etc.*

Every State official and every head of a State department, institution or agency issuing any printed report, bulletin, map, or other publication shall, on request, furnish copies of such reports, bulletins, maps or other publications to the following institutions in the number set out below:

University of North Carolina at Chapel Hill	25 copies;
University of North Carolina at Charlotte	2 copies;
University of North Carolina at Greensboro	2 copies;
North Carolina State University at Raleigh	2 copies;
East Carolina University at Greenville	2 copies;
Duke University	25 copies;
Wake Forest College	2 copies;
Davidson College	2 copies;
North Carolina Supreme Court Library	2 copies;
North Carolina Central University	5 copies;
Western Carolina University	2 copies;
Appalachian State University	2 copies;
University of North Carolina at Wilmington	2 copies;
North Carolina Agricultural and Technical State University	2 copies;
Legislative Library	2 copies;

and to governmental officials, agencies and departments and to other educational institutions, in the discretion of the issuing official and subject to the supply available, such number as may be requested: Provided that five sets of all such reports, bulletins and publications heretofore issued, insofar as the same are available and without necessitating reprinting, shall be furnished to the North Carolina Central University. The provisions in this section shall not be interpreted to include any of the appellate division reports or advance sheets distributed by the Administrative Office of the Courts. Except for reports, bulletins, and other publications issued for free distribution, this section shall not apply to the ~~Museum of Natural History.~~ North Carolina State Museum of Natural Sciences."

(k) This section becomes effective August 1, 1993.

PART 26. MISCELLANEOUS PROVISIONS

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

RESERVE FOR ADVANCE PLANNING

Sec. 117. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on how it intends to spend funds from the Reserve for Advance Planning at least 45 days before it spends the funds.

The Office of State Budget and Management shall also report the results of any project on which it uses funds from the Reserve for Advance Planning to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

Sec. 118. When each capital improvement project appropriated by the 1993 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

PROJECT COST INCREASE

Sec. 119. Upon the request of the administration of a State department or institution, the Director of the Budget may, when in the

Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

NEW PROJECT AUTHORIZATION

Sec. 120. Upon the request of the administration of any State department or institution, the Governor may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Provided, however, that if the Director of the Budget authorizes the construction of such a capital improvement project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

Sec. 121. Funds which become available by gifts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund may not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

APPROPRIATIONS LIMITS/REVERSION OR LAPSE

Sec. 122. Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 1993 General Assembly may be expended only for specific projects set out by the 1993 General Assembly and for no other purpose. Construction of all capital improvement projects enumerated by the 1993 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund as authorized in this act. This deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

1993-94 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Sec. 123. Except where expressly repealed or amended by this act, the provisions of Chapter 321 of the 1993 Session Laws remain in effect.

Requested by: Senators Daniel, Plyler, Kaplan, Representatives Nesbitt, Diamont

EFFECTIVE DATE

Sec. 124. Except as otherwise provided, this act becomes effective July 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

CHAPTER 562

The bill bearing Chapter number 562 was recalled from enrolling prior to ratification at the end of the 1993 Regular Session. It will appear in the 1993 Session Laws, Second Session 1994.

H.B. 439 **CHAPTER 563**

AN ACT TO APPOINT PERSONS TO PUBLIC OFFICE UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments upon the recommendation of the Speaker of the House of Representatives; and

Whereas, the Speaker of the House of Representatives has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Charles P. Farris of Wilson County is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for a two-year term to expire on June 30, 1995, pursuant to G.S. 17C-3.

Sec. 2. Joseph Stevenson of Brunswick County is appointed to the North Carolina State Ports Authority for a term to expire on June 30, 1995.

Sec. 3. Charles D. Watts of Durham County and Lois Artis of Durham County are appointed to the North Carolina School of Science and Mathematics Board of Trustees, each for a term to expire on June 30, 1995.

Sec. 4. Jim R. Lowery of Robeson County is appointed to the State Commission on Indian Affairs for a term to expire on June 30, 1995.

Sec. 5. Marydell R. Bright of Alamance County is appointed to the North Carolina Teaching Fellows Commission for a term to expire on June 30, 1997.

Sec. 6. Susan L. Allen of Wake County is appointed to the North Carolina Wildlife Resources Commission for a term to expire on April 23, 1995.

Sec. 7. George C. Cunningham of Wilkes County is appointed to the Property Tax Commission for a term to expire on June 30, 1995.

Sec. 8. Robert Burford of Wake County is appointed to the Board of Transportation for a term to expire on June 30, 1995.

Sec. 9. Chrystle Swain of Durham County and Bradley Thompson of Wake County are appointed to the Board of the North Carolina Agency for Public Telecommunications, each for a term to expire on June 30, 1995.

Sec. 10. Dr. William T. Fletcher of Durham County is appointed to the North Carolina Board of Science and Technology for a term to expire on June 30, 1995.

Sec. 11. Thomas W. Bradshaw of Wake County and Gordon S. Myers of Buncombe County are appointed to the Board of Directors of the North Carolina Air Cargo Airport Authority for terms expiring June 30, 1995. Roger A. McLean of Pasquotank County is appointed to the Board of Directors of the North Carolina Air Cargo Airport Authority for a term expiring June 30, 1997.

Sec. 12. Unless otherwise provided, appointments made by this act are for terms commencing upon ratification.

Sec. 13. G.S. 120-122 reads as rewritten:

"§ 120-122. Vacancies in legislative appointments.

When a vacancy occurs, other than by the expiration of term, in any office subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives, upon the recommendation of the President Pro Tempore of the Senate, or upon the recommendation of the President of the Senate, and the vacancy occurs either: (i) after election of the General Assembly but before convening of the regular session; (ii) when the General Assembly has adjourned to a date certain, which date is more than ~~10~~ 20 days after the date of adjournment; or (iii) after sine die adjournment of the regular session, then the Governor may appoint a person to serve until the expiration of the term or until the General Assembly fills the vacancy, whichever occurs first. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. Before making an appointment, the Governor shall consult the officer who recommended the original appointment to the General Assembly (the Speaker of the House of Representatives, the President Pro Tempore of the Senate, or the President of the Senate), and ask for a written recommendation. After receiving the written recommendation, the Governor must within 30 days either appoint the person recommended or inform the officer who made the recommendation that he is rejecting the recommendation. Failure to act within 30 days as required under the provisions of the preceding sentence shall be deemed to be approval of the candidate, and the candidate shall be eligible to enter the office in as full and ample extent as if the Governor had executed the appointment. The Governor ~~may~~ shall not appoint a person other than the person so recommended. Any ~~positions~~ position subject to initial appointment by the ~~1981~~ General Assembly but not filled prior to sine die adjournment of the ~~1981~~ Session at which the position was created or adjournment to a date certain which date is more than 20 days after the date of adjournment of the session at which the position was

created may be filled by the Governor under this section as if it were a vacancy occurring after the General Assembly had made an appointment."

Sec. 14. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

RESOLUTIONS

S.J.R. 1 **RESOLUTION 1**

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. A committee of five Senators and five Representatives shall be appointed by the presiding officers of the respective houses to notify His Excellency, Governor James B. Hunt, Jr., that the General Assembly is organized and is ready to proceed with public business, and to invite him to address a joint session of the Senate and House of Representatives in the Hall of the House of Representatives at 7:00 p.m., Monday, February 15, 1993.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of February, 1993.

H.J.R. 199 **RESOLUTION 2**

A JOINT RESOLUTION INVITING THE HONORABLE ALBERT GORE, JR., VICE PRESIDENT OF THE UNITED STATES, TO ADDRESS A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Honorable Albert Gore, Jr., Vice President of the United States, is invited to address a joint session of the House of Representatives and the Senate in the Hall of the House of Representatives at 9:30 a.m., Friday, February 19, 1993.

Sec. 2. The Secretary of State shall transmit a certified copy of this resolution to Albert Gore, Jr.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of February, 1993.

H.J.R. 18 **RESOLUTION 3**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF LUTHER REGINALD JERALDS, DISTINGUISHED STATE REPRESENTATIVE AND CITIZEN OF NORTH CAROLINA.

Whereas, Luther Reginald "Nick" Jeralds was born in the Town of Orrum in Robeson County on August 20, 1938, to Winnie B. Jeralds and Amy Lee McMillan Jeralds; and

Whereas, Luther Reginald "Nick" Jeralds was educated in the North Carolina public schools and St. Emma Military Academy, and was graduated from North Carolina College, now North Carolina Central University, in 1961 with a bachelors degree in accounting; and

Whereas, after college, Luther Reginald "Nick" Jeralds joined the National Football League where he played with the Minnesota Vikings and the Dallas Texans, later known as the Kansas City Chiefs; and

Whereas, Luther Reginald "Nick" Jeralds also played with the Edmonton Eskimos, a Canadian football team for one year; and

Whereas, Luther Reginald "Nick" Jeralds was inducted into North Carolina Central University's Athletic Hall of Fame in 1987; and

Whereas, after his professional football career ended, Luther Reginald "Nick" Jeralds returned to North Carolina and became a successful realtor and executive; and

Whereas, Luther Reginald "Nick" Jeralds gave freely of his time, great energy, and many talents to virtually all aspects of his community, serving as a member of the Fayetteville Business and Professional League, the North Carolina Association of Minority Businesses, and Williams Chapel Free Will Baptist Church; and

Whereas, Luther Reginald "Nick" Jeralds received numerous awards and honors including the Distinguished Leadership and Public Service Award from North Carolina A&T University in 1988; the Service Award from Alpha Kappa Alpha Sorority in 1987; the NAACP Humanitarian Award in 1986; the Chancellor's Certificate of Merit from Fayetteville State University in 1985; and Citizen of the Year from Omega Psi Phi Fraternity in 1984; and

Whereas, Luther Reginald "Nick" Jeralds served the people of Cumberland County and the State of North Carolina for 10 years of service in the North Carolina House of Representatives; and

Whereas, during his service with the General Assembly, Luther Reginald "Nick" Jeralds served on numerous committees including the Advisory Budget Commission, Appropriations, Constitutional Amendments, Elections Laws, and State Government; and

Whereas, Luther Reginald "Nick" Jeralds served as chair of Human Resources and Military and Veteran Affairs and served as vice-chair of Legislative and Local Redistricting, Human Resources, the subcommittee on Personnel Policies, Banks and Thrift Institutions, and Constitutional Amendments; and

Whereas, Luther Reginald "Nick" Jeralds was held in high esteem by his colleagues in the General Assembly and served with distinction until his death on December 13, 1992; and

Whereas, Luther Reginald "Nick" Jeralds is survived by his widow, Jo Ann Fuller Jeralds; two sons, Adonis N. Jeralds and Adrian D. Jeralds; and a daughter, Arikka M. Jeralds;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of Luther Reginald "Nick" Jeralds and expresses the gratitude and appreciation of this State and its citizens for his life and devoted service to North Carolina.

Sec. 2. The General Assembly extends its deep sorrow to the family and friends of Luther Reginald "Nick" Jeralds for the loss of a beloved family man and a true friend.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Luther Reginald "Nick" Jeralds.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of February, 1993.

H.J.R. 181 **RESOLUTION 4**

A JOINT RESOLUTION HONORING THE DELEGATES TO THE NORTH CAROLINA CONSTITUTIONAL CONVENTION OF 1868 AND THE FIRST COUNTY COMMISSIONERS, INCLUDING THOSE OF RUTHERFORD COUNTY, ELECTED UNDER THE CONSTITUTION OF 1868 UPON THE 125TH ANNIVERSARY OF THE 1868 NORTH CAROLINA CONSTITUTION, WHICH ESTABLISHED THE COUNTY

COMMISSIONER FORM OF GOVERNMENT IN NORTH CAROLINA.

Whereas, delegates to the Constitutional Convention of 1868 met from January to March 1868 to draft a new Constitution for North Carolina; and

Whereas, the delegates were familiar with progressive local government systems in other states; and

Whereas, the delegates drafted a new and more democratic Constitution for North Carolina, which was ratified by the people of the State in April of 1868; and

Whereas, the Constitution of 1868 reformed the system of county government in North Carolina; and

Whereas, the Constitution of 1868 eliminated the county Court of Pleas and Quarter Sessions, created townships, and assigned administrative duties to a new board of county commissioners in each county; and

Whereas, the Constitution of 1868 provided for the direct election of county officials by popular vote; and

Whereas, the Constitution of 1868 established a uniform, progressive, and democratic system of county and township government in North Carolina; and

Whereas, Rutherford County was one of the first counties to elect county commissioners under the system established by the Constitution of 1868; and

Whereas, the people of Rutherford County elected B.W. Andrews, John M. Allen, Calvin J. Sparks, and H.H. Hopper as their first county commissioners under the Constitution of 1868; and

Whereas, the first County Commissioners of Rutherford County and their counterparts across the State participated in a new and more democratic plan of organization for counties; and

Whereas, the county commissioner form of government, first introduced by the Constitution of 1868, has successfully served the people of North Carolina for 125 years;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of the members of the Constitutional Convention of 1868 and the first county commissioners in the State, including those of Rutherford County, elected under the Constitution of 1868, upon the 125th anniversary of the Constitution of 1868, which established the county commissioner form of government in North Carolina.

Sec. 2. The Secretary of State shall transmit a certified copy of this resolution to the chair of each board of county commissioners of the State and to the President of the North Carolina Association of County Commissioners.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 25th day of March, 1993.

S.J.R. 68 **RESOLUTION 5**

A JOINT RESOLUTION HONORING THE LATE UNITED STATES SUPREME COURT JUSTICE, THURGOOD MARSHALL.

Whereas, on January 24, 1993, the nation suffered a great loss with the death of United States Supreme Court Justice Thurgood Marshall; and

Whereas, Thurgood Marshall was born on July 2, 1908, in Baltimore, Maryland, to William and Norma Marshall and was the great-grandson of a slave; and

Whereas, Thurgood Marshall received his undergraduate degree from Lincoln University in Lincoln, Pennsylvania, and his law degree from the Howard University Law School in Washington, D.C., where he graduated at the top of his class in 1933; and

Whereas, Thurgood Marshall became an accomplished attorney and was one of the nation's most influential lawyers; and

Whereas, Thurgood Marshall served as Chief Counsel for the NAACP Legal Defense and Education Fund from 1938 until 1961; and

Whereas, Thurgood Marshall was the first African-American appointed to the Court of Appeals in 1961; and

Whereas, Thurgood Marshall was appointed Solicitor General of the United States in 1965; and

Whereas, Thurgood Marshall's practice before the United States Supreme Court resulted in his winning 29 of 32 cases that he argued before the Court; and

Whereas, in 1954, Thurgood Marshall argued his most famous case, Brown vs. Board of Education, which led the Supreme Court to outlaw racial segregation in the nation's public schools; and

Whereas, Thurgood Marshall's legal career culminated with his appointment to the Supreme Court on June 13, 1967, by President Lyndon B. Johnson; and

Whereas, Justice Marshall was the first African-American to serve on the Court and was a justice known for his commitment to the poor and the powerless; and

Whereas, Justice Marshall served with distinction on the Court until his retirement due to illness in 1991; and

Whereas, Justice Marshall's life has benefitted all of the citizens of North Carolina by bringing together Americans of all races; and

Whereas, whether Thurgood Marshall is remembered as an accomplished attorney, a strong civil rights advocate, or a forceful Supreme Court Justice, he will be long remembered by the many Americans whose lives he influenced;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly honors the life and memory of Thurgood Marshall and expresses its deep appreciation for accomplishments and service he rendered to the nation and the State of North Carolina.

Sec. 2. The General Assembly extends its deepest sympathy to the family of Thurgood Marshall.

Sec. 3. The Secretary of State shall send a certified copy of this resolution to the family of Thurgood Marshall.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 30th day of March, 1993.

H.J.R. 440 **RESOLUTION 6**

A JOINT RESOLUTION INVITING THE HONORABLE JAMES G. EXUM, JR., CHIEF JUSTICE OF THE SUPREME COURT, TO ADDRESS A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Honorable James G. Exum, Jr., Chief Justice of the Supreme Court, is invited to address a joint session of the House of Representatives and the Senate in the Hall of the House of Representatives at 2:00 p.m., Thursday, April 1, 1993.

Sec. 2. The Secretary of State shall transmit a certified copy of this resolution to James G. Exum, Jr.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 31st day of March, 1993.

H.J.R. 591 **RESOLUTION 7**

A JOINT RESOLUTION HONORING S. A. HOLLEMAN, THE FIRST MAYOR OF THE TOWN OF ELON COLLEGE, AND THE FOUNDERS OF THE TOWN OF ELON COLLEGE ON THE TOWN'S ONE-HUNDREDTH ANNIVERSARY.

Whereas, the Town of Elon College, formerly known as the Village of Mill Point, was founded on April 7, 1893, near the tracks of the North Carolina Railroad; and

Whereas, the first mayor of the Town of Elon College was S. A. Holleman; and

Whereas, the Town of Elon College, the proud home of Elon College and Elon Homes for Children, has been an integral part of Alamance County, especially as a cultural and educational center; and

Whereas, a number of dedicated volunteers have taken time out of their busy schedules to plan and implement many special events in recognition of the town's centennial; and

Whereas, several area businesses have joined with the town by contributing to the centennial celebration in order to make it a success;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of S. A. Holleman, the first mayor of the Town of Elon College, and the founders of the Town of Elon College. The General Assembly further recognizes and congratulates the Town of Elon College on its one-hundredth anniversary and wishes the town and its citizens much success in their centennial year.

Sec. 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Elon College and the Alamance County Board of County Commissioners.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of April, 1993.

S.J.R. 522 **RESOLUTION 8**

A JOINT RESOLUTION HONORING THE LIFE, SERVICE, AND MEMORY OF JOHN C. KESLER.

Whereas, John C. Kesler, one of North Carolina's most distinguished citizens, died on July 28, 1992; and

Whereas, in recognition of the deep debt which this State and its citizens owe to John C. Kesler, the General Assembly wishes to honor his life, his service, and his memory; and

Whereas, John C. Kesler was born on May 23, 1899, in Rowan County, North Carolina, to G.C. and Fannie Kesler; and

Whereas, John C. Kesler graduated from the Spencer City Schools, received his A.B. degree from the University of North Carolina in 1924, and received his Juris Doctor degree from the University of North Carolina Law School in 1928, where he was a member of the editorial staff of The Carolina Law Review; and

Whereas, after law school, John C. Kesler returned to Rowan County to practice law; and

Whereas, John C. Kesler was elected prosecuting attorney for the Rowan County court and served in that capacity in 1937 and 1938, and was thereafter elected judge of the Rowan County court and served from 1939 through 1940; and

Whereas, John C. Kesler married Suddie Grace West on July 20, 1939, and from their union, one daughter, Frances was born; and

Whereas, John C. Kesler and his wife, Suddie, made their home in the City of Salisbury until her passing on August 7, 1972; and

Whereas, John C. Kesler worked tirelessly for the good of his county, his region, and his State; and

Whereas, John C. Kesler was elected to and served in the North Carolina State Senate with honor and distinction during the 1945, 1947, 1959, and 1961 Sessions of the General Assembly; and

Whereas, John C. Kesler also served the people of Rowan County and North Carolina as a member of the Judicial Council, the North Carolina Bar Association, the American Bar Association, the Board of Stewards and the Board of Trustees of the First United Methodist Church of Salisbury, the Democratic Party, and the Salvation Army, as Trustee of The Greater University of North Carolina from 1949 through 1957, as President of the Rowan County Bar Association, and as Master of the Spencer Masonic Lodge No. 543; and

Whereas, as a public servant, John C. Kesler's contributions to his community, his State, and nation will be long remembered in the distinguished history of this State; and

Whereas, John C. Kesler is survived by his daughter, Frances Kesler Driscoll and two grandchildren;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly wishes to honor the memory of John C. Kesler, and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Sec. 2. The General Assembly extends its sincere sympathy to the family of John C. Kesler for the loss of a distinguished family member.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of John C. Kesler.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of April, 1993.

H.J.R. 680 **RESOLUTION 9**

A JOINT RESOLUTION HONORING THE LATE GOVERNOR MELVILLE BROUGHTON ON THE FIFTIETH ANNIVERSARY OF THE NORTH CAROLINA CENTER FOR APPLIED TEXTILE TECHNOLOGY.

Whereas, in 1941, the General Assembly created the North Carolina Vocational Textile School and Governor Melville Broughton appointed the first members of the Textile School Commission; and

Whereas, on April 19, 1943, in Gaston County, the North Carolina Vocational Textile School opened its doors to students; and

Whereas, in a dedication speech by Governor Melville Broughton, he stated that the North Carolina Vocational Textile School was established for "the particular purpose of improving the training and enlarging the opportunities of those engaged in the textile industry"; and

Whereas, for 50 years, the North Carolina Vocational Textile School has played an important role in the vocational training of the citizens in this State, especially those in the Piedmont area; and

Whereas, in 1991, the North Carolina Vocational Textile School was renamed the North Carolina Center for Applied Textile Technology; and

Whereas, over 25,000 students have attended classes at the North Carolina Center for Applied Textile Technology and 4,328 diplomas have been awarded by the institution;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes and honors Governor Melville Broughton and the 1941 General Assembly for their vision in establishing the North Carolina Center for Applied

Textile Technology and commends the North Carolina Center for Applied Textile Technology for its contributions to North Carolina and its people, and extends congratulations on the occasion of the institution's 50th anniversary.

Sec. 2. The Secretary of State shall transmit a certified copy of this resolution to the president of the North Carolina Center for Applied Technology and to the family of Governor Melville Broughton.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of April, 1993.

S.J.R. 919 **RESOLUTION 10**

A JOINT RESOLUTION RECOGNIZING THE MEN'S BASKETBALL PROGRAM AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL AND HONORING THE 1992 MEN'S BASKETBALL TEAM ON WINNING THE 1993 NCAA DIVISION I CHAMPIONSHIP.

Whereas, the men's basketball program at the University of North Carolina at Chapel Hill (UNC-CH) warrants recognition and a commendation for its outstanding record of excellence; and

Whereas, on April 5, 1993, the student athletes on the men's basketball team won the 1993 National Collegiate Athletic Association (NCAA) Division I Championship by defeating the University of Michigan by a score of 77-71; and

Whereas, this championship is the third NCAA Division I title for the UNC-CH men's basketball program; and

Whereas, the excellence of the UNC-CH men's basketball program is further exemplified by the many banners decorating the Dean Smith Student Athletic Center that reflect past team accomplishments; the numerous individual and team performance records; the numerous honors, awards, and other recognitions received; and the many thousands of loyal Tar Heel fans; and

Whereas, these accomplishments reflect favorably on the remarkable athletic program at the University; and

Whereas, members of the UNC-CH men's basketball program under Head Coach Dean Smith and his coaching staff have excelled not only on the basketball court, but off the basketball court as well; and

Whereas, going into the 1992 season, student athletes and team managers who had participated in the UNC-CH men's basketball

program under Head Coach Dean Smith and his coaching staff had a graduation rate of over 97%; and

Whereas, former members of the UNC-CH men's basketball program have become successful, contributing citizens, and so far 41 players have played professionally, seven are still in graduate school, 13 are attorneys, 18 are doctors, 95 are businessmen, 39 are coaches, two are ministers, one is a pharmacist, three are recreation facility operators, and three are officers in the armed forces; and

Whereas, members of the UNC-CH men's basketball program are positive role models as athletes and students on and off the basketball court; and

Whereas, for the past 32 seasons, the UNC-CH men's basketball program has been under the leadership of Coach Dean Smith; and

Whereas, Coach Dean Smith is not only an outstanding basketball coach, but also a highly respected mentor, educator, and motivator; and

Whereas, Coach Dean Smith is known for his system of team work which stresses discipline, unselfishness, and the true team concept; and

Whereas, Coach Dean Smith is recognized as the second "winningest" basketball coach with an impressive record of 774 wins and 223 losses; he has won 16 Atlantic Coast Conference regular season titles and two NCAA Division I Championships; he is the first coach in the history of the NCAA Tournament to lead a team to the Final Four in four different decades; he has won more NCAA Tournament games than any other coach, reaching the Sweet Sixteen 23 times and the Final Four nine times; and

Whereas, these extraordinary accomplishments of the players and coaches of the UNC-CH basketball program bring great honor and distinction to the State of North Carolina, and deserve recognition by the State;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly recognizes the outstanding achievements of the men's basketball program at the University of North Carolina at Chapel Hill. The General Assembly expresses the appreciation and admiration of the people of North Carolina to the men's basketball team at the University of North Carolina at Chapel Hill for winning the 1993 National Collegiate Athletic Association Division I Championship.

Sec. 2. The General Assembly recognizes the achievements of the 1992 team members: Eric Montross, Pat Sullivan, Larry Davis, Henrick Rodl, Scott Cherry, Derrick Phelps, Donald Williams, Dante

Calabria, Brian Reese, Kevin Salvadori, George Lynch, Travis Stephenson, Ed Geth, Matt Wenstrom, and Serge Zwikker; Junior Varsity members and team managers; Head Coach Dean Smith; assistant coaches: Bill Guthridge, Phil Ford, and Randy Wiel; and other staff.

Sec. 3. The Secretary of State shall send certified copies of this resolution to Athletic Director John Swofford and to all individuals honored in this resolution.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of April, 1993.

S.J.R. 976 **RESOLUTION 11**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DWIGHT WILSON QUINN, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Dwight Wilson Quinn, one of North Carolina's most distinguished legislators, died on February 27, 1992; and

Whereas, Dwight Wilson Quinn was born on September 12, 1917, in York, South Carolina, to William Lytle Quinn and Lucy Wilson Quinn; and

Whereas, in 1920, Dwight Wilson Quinn and his family moved to the City of Kannapolis, where he remained a loyal and devoted resident until his death; and

Whereas, after attending the public schools in Cabarrus County, Dwight Wilson Quinn went to work at the Cannon Mills Company; and

Whereas, with the exception of two years of service in the United States Army from 1944 through 1945, Dwight Wilson Quinn remained an employee of the Cannon Mills Company, and before his retirement in 1985, had become Director of Public Affairs; and

Whereas, Dwight Wilson Quinn married Marian Elizabeth Isenhour and they had one child, Linda Jo; and

Whereas, Dwight Wilson Quinn was active in several fraternal and community organizations including the American Legion, the Rotary Club, the Shrine's Oasis Temple, the Cannon Memorial YMCA, in which he served as Director, and the Cabarrus County Boys Club, in which he served on the Board of Directors; and

Whereas, Dwight Wilson Quinn served on numerous boards and commissions including the Southern Region Education Board as Director, the Board of Trustees and Executive Committee of Appalachian State University as Chair, the Governor's Commission on

Reorganization of State Government as Chair, the Executive Committee of the Governor's Committee on Juvenile Delinquency and Youth Crime, the Criminal Code Revision Committee, and the Governor's Study Commission on Architectural Barriers for the Benefit of the Handicapped; and

Whereas, Dwight Wilson Quinn was an active member of the Democratic Party and served as a delegate to the National Democratic Convention in 1960 and 1968; and

Whereas, Dwight Wilson Quinn was recruited to run for the North Carolina House of Representatives in 1950; and

Whereas, Dwight Wilson Quinn was elected to and served in the House of Representatives for an unprecedented 18 consecutive terms from 1951 through 1985, entitling him to be known as the "Dean" of the House of Representatives; and

Whereas, during Dwight Wilson Quinn's 36-year tenure, he served under 15 Speakers of the House of Representatives and nine Governors of the State of North Carolina; and

Whereas, Dwight Wilson Quinn chaired numerous House committees including the Appropriations Subcommittee on Education, the Public Utilities Committee, the Education Committee, the Higher Education Committee, and the Finance Committee; and

Whereas, Dwight Wilson Quinn had a profound influence on the House of Representatives; he worked long and hard behind the scenes to assist the leadership and governors in achieving their programs; and

Whereas, Dwight Wilson Quinn always remembered the people he represented and was instrumental in helping the City of Kannapolis and Cabarrus County grow; and

Whereas, Dwight Wilson Quinn received numerous awards and recognitions including an Honorary Doctor of Law from Appalachian State University in 1978, the National Distinguished Service Award from AMVETS in 1953, and Man of the Year from the Kannapolis Jaycees in 1948; and

Whereas, Dwight Wilson Quinn was an active member of the Kimball Memorial Lutheran Church where he had served as a member of the Church Council; and

Whereas, Dwight Wilson Quinn was well-respected and admired by his peers, his friends, members of his community, and the State of North Carolina; and

Whereas, Dwight Wilson Quinn is survived by his wife, Marian Isenhour Quinn; a daughter, Linda Jo Quinn Dodge; and four grandchildren;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly recognizes the achievements of Dwight Wilson Quinn and expresses its appreciation for his contributions to the State.

Sec. 2. The General Assembly extends its deepest sympathy to the family and friends of Dwight Wilson Quinn and mourns the loss of this able and devoted public servant.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Dwight Wilson Quinn.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of April, 1993.

H.J.R. 522 **RESOLUTION 12**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIE C. LOVETT.

Whereas, Willie C. Lovett was a native of Statesboro, Georgia; and

Whereas, Willie C. Lovett received a BS degree in Mechanical Engineering from Tennessee State University and served as an officer in the United States Air Force from 1962 until 1965; and

Whereas, Willie C. Lovett was a resident of Durham and was a longtime employee of the International Business Machines Corporation; and

Whereas, Willie C. Lovett was married to the former Evelyn Shatteen and was the father of two children; and

Whereas, Willie C. Lovett was a devoted and lifelong servant of the Durham community, serving on numerous committees and organizations; and

Whereas, in 1977, Willie C. Lovett was elected chair of the Durham County Democratic Party, and for a number of years, served as a member of the North Carolina Democratic Executive Committee; and

Whereas, Willie C. Lovett was an active member of the Durham Committee on the Affairs of Black People, serving as cochair of the Committee in 1979, and as chair of the Committee in 1980; and

Whereas, Willie C. Lovett conscientiously embraced the creed of the Durham Committee on the Affairs of Black People which holds that one should believe in democracy in the broadest sense and work toward community advancement without selfish individual or group motives; and

Whereas, Willie C. Lovett believed strongly in equity, justice, and fairness for African-Americans and other people of color, and

addressed the issues of equitable representation on boards and commissions; and

Whereas, during Willie C. Lovett's tenure as chair of the Durham Committee on the Affairs of Black People and due to his influence, a significant number of African-Americans were elected to the City Council, the County Board of Commissioners, and the Durham City Board of Education; and

Whereas, Willie C. Lovett fought for fairness in budgetary appropriations and for changes in the process of double taxation, and espoused the position that public dollars should be expended in ways that reflect where the greatest needs are; and

Whereas, Willie C. Lovett received numerous awards and honors including Citizen of the Year from Omega Psi Phi Fraternity in 1991, Keeper of the Dream Award from the Martin Luther King, Jr. Steering Committee in 1990, and the Appreciation of Service Award from the Durham Chapter of Continental Societies, Inc., in 1989; and

Whereas, prior to his death, Willie C. Lovett was elected as a Democratic candidate in the 1992 May Primary to represent Durham County in the State House of Representatives; and

Whereas, the untimely death of Willie C. Lovett came on August 6, 1992; and

Whereas, Willie C. Lovett will be remembered as a man devoted to his family, his community, his profession, and to public service; and

Whereas, Willie C. Lovett is survived by his wife, Evelyn Lovett, and two children, Rodney and Tracy;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly wishes to honor the life and memory of Willie C. Lovett and expresses its appreciation for the service he rendered to his community, State, and nation.

Sec. 2. The General Assembly extends its deepest sympathy to the family of Willie C. Lovett.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Willie C. Lovett.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of May, 1993.

H.J.R. 1209 **RESOLUTION 13**

A JOINT RESOLUTION SETTING THE DATE FOR THE HOUSE OF REPRESENTATIVES AND SENATE TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. Pursuant to G.S. 115D-2.1(b)(4)f., the House of Representatives and the Senate shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers held on Thursday, May 27, 1993. At that time the House of Representatives shall elect one member to the State Board for a term of six years beginning July 1, 1993; the Senate shall elect one member to the State Board for a term of six years beginning July 1, 1993.

Sec. 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for nomination and election of members of the State Board.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of May, 1993.

H.J.R. 1247 **RESOLUTION 14**

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO CONSIDER ACTION ON THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor has transmitted to the presiding officers of the House of Representatives and the Senate, the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2001;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. Upon the call of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the General Assembly shall meet in joint session to consider action on the

appointments by the Governor of new members appointed to the State Board of Education.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of June, 1993.

H.J.R. 1248 **RESOLUTION 15**

A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS OF EDDIE DAVIS, III, ROBERT R. DOUGLAS, AND MARGARET B. HARVEY TO MEMBERSHIP ON THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor has transmitted to the presiding officers of the House of Representatives and the Senate, the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2001.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The appointments of Eddie Davis, III, Robert R. Douglas, and Margaret B. Harvey to membership on the State Board of Education for terms to expire March 31, 2001, are confirmed.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of June, 1993.

S.J.R. 1160 **RESOLUTION 16**

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF JOHN THOMAS MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10 appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy will occur on the North Carolina Utilities Commission on June 30, 1993; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the name of his appointee to serve a term on the North Carolina Utilities Commission which will begin July 1, 1993, and expire June 30, 2001;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The appointment of John Thomas to the North Carolina Utilities Commission for a term to begin July 1, 1993, and expire June 30, 2001, is confirmed.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of June, 1993.

S.J.R. 1161 **RESOLUTION 17**

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF JUDY FRANCES HUNT MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10 appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy will occur on the North Carolina Utilities Commission on June 30, 1993; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the name of his appointee to serve a term on the North Carolina Utilities Commission which will begin July 1, 1993, and expire June 30, 2001;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The appointment of Judy Frances Hunt to the North Carolina Utilities Commission for a term to begin July 1, 1993, and expire June 30, 2001, is confirmed.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of June, 1993.

S.J.R. 1162 **RESOLUTION 18**

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF RALPH A. HUNT MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10 appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy will occur on the North Carolina Utilities Commission on June 30, 1993; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the name of his appointee to serve a term on the North Carolina Utilities Commission which will begin July 1, 1993, and expire June 30, 2001;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The appointment of Ralph A. Hunt to the North Carolina Utilities Commission for a term to begin July 1, 1993, and expire June 30, 2001, is confirmed.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of June, 1993.

H.J.R. 1496 **RESOLUTION 19**

A JOINT RESOLUTION HONORING THE LATE S. R. "BUD" FOWLE, FORMER MAYOR OF THE CITY OF WASHINGTON, AND RECOGNIZING THE CITY ON BEING NAMED AN ALL AMERICA CITY.

Whereas, the late S. R. "Bud" Fowle, former mayor of the City of Washington, was a diligent servant to the City of Washington and was devoted to improving the conditions of the City;

Whereas, the City of Washington in Beaufort County was recently honored by the National Civic League as one of the 10 municipalities nationwide to receive its All America City award; and

Whereas, the City of Washington was the only North Carolina city to win the award this year; and

Whereas, the City of Washington exemplifies the American tradition of people of different races and cultures living and working together successfully to overcome its problems; and

Whereas, the City was recognized for its efforts to improve drinking water quality after cancer-causing chemicals were found in the water supply; its projects to provide low-cost housing; and its programs to promote cultural diversity;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the life and memory of S. R. "Bud" Fowle and expresses its deepest sympathy to his family. The General Assembly also expresses its gratitude for his service to the people of the City of Washington.

Sec. 2. The General Assembly honors the City of Washington and its citizens for receiving the National Civic League's All America City award and extends its pride to the City and Beaufort County and its citizens for bringing national recognition to the State of North Carolina.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to Floyd Brothers, the present Mayor of the City of Washington, and to the Chair of the Beaufort County Board of County Commissioners.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 1993.

S.J.R. 1252 **RESOLUTION 20**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WARMOTH THOMAS GIBBS.

Whereas, Warmoth Thomas Gibbs was born in Baldwin, Louisiana, on April 5, 1892, to Alice Tolliver Gibbs and Thomas Dorsey Gibbs; and

Whereas, Warmoth Thomas Gibbs experienced a childhood that he acknowledged had a tremendous influence on him; a childhood personified by a triangle the sides of which were home, church, and school; and

Whereas, during his childhood he attended the same school from which his parents and all his five brothers and sisters graduated, Gilbert Academy, an institution that doubled as a school and an orphanage; and

Whereas, his academic capabilities and social sensibilities were revealed early, as evidence of which in the sixth grade, he authored an essay entitled "The Obligations of the American Negro to the People of Africa" that won him an award from the Methodist Foreign Missionary Society headquartered in the Gammon School of Theology in Atlanta, Georgia; and

Whereas, Warmoth Thomas Gibbs earned an A.B. degree in Liberal Arts from Wiley College in Marshall, Texas, in 1912 and was Valedictorian of his graduating class; he earned an A.B. degree in History and Political Science from Harvard College in 1917; and he earned an Ed.M. degree in Education and History from Harvard University in 1925; and he engaged in further graduate study at Harvard Law School from 1921 to 1922 and in History and Political Science at Harvard University from 1931 to 1932; and

Whereas, Warmoth Thomas Gibbs joined the R.O.T.C. Unit at Harvard College in 1915; the United States declared war on Germany April 6, 1917; the War Department authorized an Officer's Reserve Training Camp for Negro men May 19, 1917, to be established at Fort Des Moines, Iowa; and Warmoth Thomas Gibbs, without waiting for graduation, reported for duty June 15, 1917, as a member of the first group, and was commissioned October 15, 1917, as a Second Lieutenant in the United States Army; and

Whereas, Lieutenant Gibbs was assigned to the 367th Infantry, 92nd Division and served as part of three engagements in France during 1918; and where, due to his fluency in French, one of his duties was to arrange lodging for soldiers in various French cities; and he received an honorable discharge June 12, 1919; and

Whereas, Warmoth Thomas Gibbs married Marece Allen Jones May 23, 1918, and three children were born of that union; and Warmoth Thomas Gibbs and Marece Allen Jones Gibbs lived together as a loving couple until her death in 1967; and

Whereas, from 1919 to 1920, Warmoth Thomas Gibbs served as one of the first African Americans on the Boston, Massachusetts police force, and from 1920 to 1922 served as the second Executive Secretary of the Boston Urban League; and

Whereas, fortunately for A & T College and the State of North Carolina, Warmoth Thomas Gibbs chose to dedicate his life to educating students at A & T; and in 1926, he began his career there as Dean of Men and Instructor in Military Science and Tactics; and

Whereas, Warmoth Thomas Gibbs later served as Professor of History and Government, Dean of the School of Education and General Studies, Director of Summer School, and from 1955 to 1960 as President, and he guided and shaped the institution as the

foundation was being laid for it to become a prominent world-class institution; and

Whereas, from his retirement in 1960 until his death, Warmoth Thomas Gibbs was President-Emeritus of A & T College and North Carolina Agricultural and Technical State University; and

Whereas, during the period of Warmoth Thomas Gibbs' presidency at A & T College, the first white student was admitted in 1957, A & T College, for the first time, became fully accredited by the Southern Association of Colleges and Schools, and he presided over the historic role played by the institution and its students in advancing the cause of civil and human rights with the focal point being the Woolworth sit-ins of 1960; and

Whereas, during the sit-ins of 1960, Warmoth Thomas Gibbs was pressured by State and local elected and appointed officials to keep A & T College students on campus and not to allow them to participate in the demonstrations; his response resounded throughout the nation: "We teach our students how to think, not what to think."; and

Whereas, following his retirement as President of A & T College he published the first history of the institution, he remained faithful to that institution and very active in the life of its campus, staff and students; and although he was only one year younger than A & T College (which became North Carolina Agricultural and Technical State University subsequent to the period of his presidency), Warmoth Thomas Gibbs was a participant throughout the celebration of the University's Centennial Year of 1991; and

Whereas, Warmoth Thomas Gibbs was an active contributor, board member, and officer of numerous professional, religious, social, community, and business organizations, and received numerous honors and awards, and has had numerous writings published, and was awarded honorary doctorate degrees from Wiley College and A & T College; and

Whereas, in his prepared remarks for accepting the 1991 University of North Carolina Board of Governors University Award, Warmoth Thomas Gibbs wrote: "I am glad that I possessed the ability and was given the opportunity to make a contribution to the growth and development of young people who are still making their impact upon society. Today, however, as I look to the future, I see a challenge for the academic community: to prepare students not only for the educational and economic needs of this country but also for the worldwide economy and humanitarian needs."; and

Whereas, in acknowledging Warmoth Thomas Gibbs' 87th birthday celebration in April 1979, Governor James B. Hunt, Jr. wrote: "He embraced a philosophy and faith that even though the

conditions of the State, nation, and world may be dark and discouraging, he refused to believe that they were hopeless. He has been a soldier in the everlasting struggle of the human race for liberty, justice, and righteousness. He gave the devotion of his heart and soul to the greatest cause of all, helping people."; and

Whereas, Warmoth Thomas Gibbs died April 19, 1993, two weeks following his 101st birthday; and

Whereas, Warmoth Thomas Gibbs' wife, Marece Allen Jones Gibbs, and his son, Warmoth Thomas Gibbs, Jr., and each of his five siblings predeceased him; and

Whereas, Warmoth Thomas Gibbs is survived by his daughter, Marece Elizabeth Gibbs-Moore, his son, Chandler Dorsey Gibbs, twelve grandchildren, and five great-grandchildren, and other relatives, friends, and admirers;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly honors the memory of Warmoth Thomas Gibbs and expresses the gratitude and appreciation of this State and its citizens for his life and devoted service to North Carolina.

Sec. 2. The North Carolina General Assembly extends its deepest sympathy to the family of Warmoth Thomas Gibbs for the loss of their loved one.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Warmoth Thomas Gibbs.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 30th day of June, 1993.

H.J.R. 246 **RESOLUTION 21**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF ABERDEEN ON ITS ONE-HUNDREDTH ANNIVERSARY.

Whereas, the Town of Aberdeen in Moore County will be celebrating 100 years of incorporation on March 4, 1993; and

Whereas, the founders of the Town of Aberdeen made great contributions to the town; and

Whereas, the town was known as Blue's Crossing until it was renamed in 1887 for the seaport in Scotland; and

Whereas, the Town of Aberdeen has been home to many great citizens including the Honorable H. Clifton Blue, former Speaker of the North Carolina House of Representatives; and

Whereas, the Town of Aberdeen is known for its contributions to industry and agriculture; and

Whereas, the citizens of the Town of Aberdeen have been actively preparing for the town's centennial celebration;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the founders of the Town of Aberdeen and joins the town's citizens in celebrating the town's one-hundredth anniversary.

Sec. 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Aberdeen and to the Chair of the Moore County Board of County Commissioners.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1993.

H.J.R. 1497 **RESOLUTION 22**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HENRY MCMILLAN TYSON, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Henry McMillan Tyson, former member of the General Assembly, died on April 7, 1993, at the age of 78; and

Whereas, Henry McMillan Tyson was born in Cumberland County on October 31, 1914, to Henry Grady Tyson and Tommie Marsh Tyson; and

Whereas, Henry McMillan Tyson attended Gray's Creek School, earning and receiving his GED while in his sixties; and

Whereas, Henry McMillan Tyson lived and worked for all of his life in the Gray's Creek Community in Cumberland County; and

Whereas, Henry McMillan Tyson married Addie Amelia Williams on June 16, 1940, from which marriage three children were born: Carrie Eula Tyson, Henry MacMillan Tyson II, and John Marsh Tyson; and

Whereas, Henry McMillan Tyson gave freely of his time, energy, and talents to others, in virtually all aspects of community life; and

Whereas, Henry McMillan Tyson served with honor and distinction in the General Assembly as a member of the North

Carolina House of Representatives for terms during the 1973, 1977, 1979, 1981, 1983, and 1985 Legislative Sessions; and

Whereas, prior to his retirement from the General Assembly, Henry McMillan Tyson served as a member of, and held numerous leadership roles in, the following committees: Aging, Agriculture, Alcohol Beverage Control, Appropriations, Congressional Redistricting, Conservation and Development, Education, Finance, Health, Insurance, Judiciary III, Local Government I and II, Manufacturers and Labor, Military and Veterans Affairs, Public Utilities, State Properties, Water and Air Resources; and

Whereas, in addition to his General Assembly service, in 1956, Henry McMillan Tyson was elected to the Cumberland County Board of Commissioners and served for 12 years, including seven years as Chair, during the latter years of which Cumberland County led the State of North Carolina in industrial, business, and military growth; and

Whereas, in the 1960s, Henry McMillan Tyson served on the Charter Board of Directors of the Scottish Bank and, after merger, as a Director of the First Union National Bank; he was also appointed Sales Supervisor for the Fayetteville Area Tobacco Market, and was commissioned an Admiral of the USS North Carolina, North Carolina Navy, by Governor Terry Sanford; and

Whereas, in 1990, Henry McMillan Tyson was nominated and named to "Who's Who in Agriculture"; and

Whereas, Henry McMillan Tyson's religious affiliation, civic participation, and other memberships included: Elder Emeritus and Chair of the Board of Deacons of First Presbyterian Church in Fayetteville and Sunday School teacher for its Fellowship Class; Fayetteville Kiwanis Club; Fayetteville Chamber of Commerce, including serving as Chair of its Agribusiness Committee; Cumberland County Wildlife Association; Senior Citizens Roundtable; Cumberland County Soil Conservation Commission Charter member; Cumberland County Agriculture Advisory Council; North Carolina Farm Bureau life member; Cumberland County Livestock Association; Fayetteville Eastern Star; President of Cumberland County Parent Teacher Association; President of Gray's Creek Ruritan Club; and President of John Huske Anderson Masonic Lodge; and

Whereas, Henry McMillan Tyson will be fondly remembered by all who knew him as a religious, warm, and giving man, devoted to family, community, and to public service;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the life and memory of Henry McMillan Tyson, and expresses its appreciation for the service he rendered to his community, Cumberland County, and the State of North Carolina.

Sec. 2. The General Assembly extends its sympathy to the family and friends of Henry McMillan Tyson for the death of Henry McMillan Tyson, beloved family member and friend.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Henry McMillan Tyson.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1993.

H.J.R. 393 **RESOLUTION 23**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE JOHN C. CAMPBELL FOLK SCHOOL AND THE PENLAND SCHOOL OF CRAFTS AND DECLARING BOTH SCHOOLS AS NORTH CAROLINA ARTS AND CRAFTS RESOURCES.

Whereas, North Carolina is the location of two of the nation's most unique cultural resources, the John C. Campbell Folk School and the Penland School of Crafts; and

Whereas, the John C. Campbell Folk School, located in Brasstown, began as an idea of John C. and Olive Dame Campbell to revitalize rural Western North Carolina based on a Danish folk school theory; and

Whereas, in 1925, with donations of land, labor, materials, and funds from families in Brasstown, Olive Dame Campbell and Marguerite Butler Bidstrup began the John C. Campbell Folk School; and

Whereas, in the years to follow, the John C. Campbell Folk School created agricultural demonstration projects, the first area farmers' credit union, health and nutrition programs, a library, a residential school, a cannery, a dairy, agricultural cooperatives, cottage industries, and later an internationally recognized traditional Appalachian craft school; and

Whereas, the John C. Campbell Folk School was designated as an Historic District by the National Register of Historic Places; and

Whereas, the John C. Campbell Folk School pioneered such programs as job training for veterans in the late 1940s, a literacy program in the mid-1950s, a community cannery in the 1960s, and a mentor-apprenticeship crafts program in 1990; and

Whereas, the John C. Campbell Folk School heritage arts and folklore program plays a critical role in recognizing and preserving North Carolina's traditions and properly presenting and interpreting the character of North Carolinians to a larger, national public; and

Whereas, in 1992, over 15,000 people attended the John C. Campbell Folk School's outreach programs in public schools and communities, providing a critical reminder to the residents of this State of the uniqueness of North Carolina's mountain traditions; and

Whereas, the John C. Campbell Folk School serves as a center for youth, civic, church, professional, and business groups from Western North Carolina and across the southeastern region of the United States; and

Whereas, the John C. Campbell Folk School supports and markets the work of over 200 of the region's finest traditional craftspeople; and

Whereas, the John C. Campbell Folk School serves as an important point of interest, attracting over 50,000 travellers in 1992; and

Whereas, since 1985, of 237 existing craft schools, the John C. Campbell Folk School has had the most students and offered the most courses in craft, music, and dance; and

Whereas, the John C. Campbell Folk School, in the spirit of its founders, works toward two inter-connected goals, namely, the growth of the individual in an inner, spiritual sense toward finding the creative expression with each of us, and secondly, the growth of people as members of society, more caring, more understanding, and more tolerant toward their fellow human beings; and

Whereas, the John C. Campbell Folk School is one of North Carolina's most unique cultural resources and a national resource for traditional crafts, music, dance, and folklore, and is the only school of its kind in the United States; and

Whereas, in 1923, the Penland School of Crafts was begun as the Penland School of Handicrafts, by Lucy Morgan in order to revive handweaving and to provide women in rural Western North Carolina with additional income from the sale of their products; and

Whereas, the Penland School of Crafts, incorporated in 1929 and located in Mitchell County, promotes individual and artistic growth in crafts by providing programs and instructional facilities that encourage genuine innovation, knowledge of the history of applied design, and excellence in craftsmanship, and by preserving the traditions of folk arts and the heritage of improvisation; and

Whereas, the Penland School of Crafts offers classes in book arts, ceramics, drawing, fiber and surface design, glass, metals, paper, photography, printmaking, and wood; and

Whereas, through the North Carolina Office of Public Instruction, Penland School of Crafts offers teacher certificate renewal credit and a special program for North Carolina visual arts teachers; and

Whereas, through the Greater University Systems of North Carolina and Tennessee, students may earn graduate and undergraduate academic credits by attending the Penland School of Crafts; and

Whereas, in 1992, the Penland School of Crafts had students from 51 of North Carolina's counties; and

Whereas, over 150 instructors offer classes during each year at the Penland School of Crafts, coming from all over the United States and occasionally from other countries; and

Whereas, the Penland School of Crafts offers a special one-half tuition program to residents of Avery, Mitchell, and Yancey counties; and

Whereas, over 100 professional craft studios have been established in Avery, Mitchell, and Yancey counties as a direct influence of the Penland School of Crafts, which has a strong positive effect on tourism and the local economy; and

Whereas, in 1987, the Penland School of Crafts received the Mountain Heritage Award from Western Carolina University for outstanding contributions to the preservation and interpretation of the heritage and culture of Western North Carolina and the Gold Medal in Education for long-time service from the American Craft Council; and

Whereas, it is important to acknowledge the contributions of the John C. Campbell Folk School and the Penland School of Crafts and to encourage the citizens of this State to take advantage of them;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina wishes to honor the founders of the John C. Campbell Folk School and the Penland School of Crafts.

Sec. 2. The General Assembly of North Carolina wishes to recognize the John C. Campbell Folk School and the Penland School of Crafts as North Carolina arts and crafts resources and to encourage the citizens of this State to take advantage of them.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the directors of the John C. Campbell Folk School and the Penland School of Crafts.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of July, 1993.

H.J.R. 1498 **RESOLUTION 24**

A JOINT RESOLUTION HONORING THE LATE RAYMOND MARKHAM "PETE" THOMPSON, SR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, on April 23, 1993, the State of North Carolina and especially Eastern North Carolina, suffered a great loss with the untimely death of Representative Raymond Markham Thompson, Sr.; and

Whereas, Raymond Markham Thompson, Sr. was born in the Community of Weeksville in Pasquotank County, on September 17, 1925, to Wallace L. Thompson, Sr. and Minnie Markham Thompson; and

Whereas, Raymond Markham Thompson, Sr. was better known to his wide variety of friends, acquaintances, and associates as "Pete" Thompson; and

Whereas, Pete Thompson graduated from Elizabeth City High School in 1943, and then served in the United States Coast Guard as a Signalman, Third Class, during World War II from 1943 until 1946, and was decorated for service in the Pacific and Atlantic; and

Whereas, after serving in the military, Pete Thompson attended North Carolina State University, earning a Bachelor of Science degree in Agricultural Education in 1950; and

Whereas, Pete Thompson made no secret of his fierce devotion to North Carolina State University, forever championing his alma mater upon every opportunity to do so; and

Whereas, Pete Thompson married Carolyn Pemberton of Raleigh on June 9, 1949, and from their union, three children were born; and

Whereas, Pete Thompson made a lifelong career in agriculture; he taught Vocational Agriculture from 1950 until 1951, served as Assistant Perquimans County Agent from 1951 until 1954, served as Chair of the Perquimans County Extension Service from 1954 until 1970, served as Chair of the Chowan County Extension Service from 1970 until 1981, served as a Farm Consultant with Peoples Bank from 1981 until 1983, and served as Manager for Chowan Storage from 1983 until 1987; and

Whereas, Pete Thompson was a member of numerous community, civic, and fraternal organizations including the County Agents Association, Epsilon Sigma Phi, the Hertford Lions Club, the Ruritan Club, the Edenton Lions Club, the American Legion Post

#40, Veterans of Foreign Wars, and the Masonic Order, Unanimity Lodge No. 7; and

Whereas, Pete Thompson served on the Board of Directors of Chowan Hospital from 1977 until 1982 and of Peoples Bank from 1980 until his death; and

Whereas, during his life Pete Thompson displayed a zeal for life and a concern for others that greatly benefitted his fellow man; and

Whereas, Pete Thompson was elected to and served with honor and distinction in the North Carolina House of Representatives from 1987 until 1993; and

Whereas, as a member of the State House, Representative Thompson served on numerous committees, and most recently served as Chair of the House Local and Regional Government I Committee, as Vice-Chair of Finance, and as a member of the Agriculture, Environment, and Public Utilities Committees; and

Whereas, during his service in the General Assembly, Representative Thompson spearheaded many initiatives, including improvements in the highway system of Eastern North Carolina, promotion of tourism, improvements to the State day care system, protection of children, and enhanced protection of the environment; and

Whereas, Representative Thompson displayed a subtle presence as he walked the halls of the General Assembly; he was acutely informed on all major issues and knowledgeable about a majority of the legislation before the General Assembly; and

Whereas, Representative Thompson always displayed an affection and concern for the problems of every citizen in his District and that forever improved the quality of life for those citizens; and

Whereas, Pete Thompson was a member of the Edenton United Methodist Church and served as a Sunday School Teacher from 1972 until 1983; and

Whereas, Pete Thompson was a devoted husband, father, and grandfather; and

Whereas, Pete Thompson will be forever remembered for his infectious smile and for his quiet, unassuming mannerisms which brought him affection and respect from all who came to know him; and

Whereas, Pete Thompson is survived by two daughters, Gayle Norton and Sharon Farless; a son, R. Mark Thompson, Jr.; five grandchildren; and several other family members;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the life and memory of Raymond Markham "Pete" Thompson, Sr. and expresses the gratitude and appreciation of this State and its citizens for his life and service to his community, to his State, and to his country.

Sec. 2. The General Assembly expresses its deep sorrow to the family and friends of Raymond Markham "Pete" Thompson, Sr. for the loss of a beloved father and grandfather, and a true friend.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Raymond Markham Thompson, Sr.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.J.R. 594 **RESOLUTION 25**

A JOINT RESOLUTION HONORING THE MEMORY OF PAUL GREEN, DRAMATIST LAUREATE OF NORTH CAROLINA AND ESTABLISHING THE NORTH CAROLINA CENTER FOR THE BOOK.

Whereas, Paul Green, a Pulitzer Prize-winning playwright, was the official Dramatist Laureate of North Carolina, as designated by the General Assembly in recognition of his many contributions to the literary heritage of his native State; and

Whereas, Paul Green was the innovative creator of the symphonic drama, as exemplified by "The Lost Colony", which is the longest running outdoor drama in America; and

Whereas, this year, five of the 15 dramas that Paul Green authored are being presented in various parts of the country; and

Whereas, 1994 will mark the 100th anniversary of the birth of Paul Green in Harnett County; and

Whereas, in honor of the birth of Paul Green a celebration recognizing his life will be held in Harnett County during that year; and

Whereas, North Carolina has produced many other notable literary figures who have contributed to the State's literary heritage; and

Whereas, the General Assembly, in conjunction with the Library of Congress, supports the establishment of the North Carolina Center for the Book and, subsequently the North Carolina Literary Hall of Fame, in the historic public library in the Town of Southern Pines; and

Whereas, the purpose of the Center is to promote reading, celebrate our literary heritage, and develop writers; and

Whereas, the Town of Southern Pines will be vacating the present library building for a new location and facility; and

Whereas, proximity of the Weymouth Center and the Theatre would permit the holding of national and regional conferences and the performance of plays written by young playwrights or poetry readings; and

Whereas, the Center would build upon the significant contributions made by Dramatist Laureate Paul Green, Poet Laureate Sam Ragan and former Secretary of Cultural Resources, Sara Hodgkins, and the many other authors and journalists from North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly honors the memory of Paul Green and supports efforts to create the North Carolina Center for the Book and the North Carolina Literary Hall of Fame to be located at the old Southern Pines Library building.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.J.R. 296 **RESOLUTION 26**

A JOINT RESOLUTION HONORING DONALD ROSS AND HONORING DONALD ROSS, THE FATHER OF AMERICAN GOLF COURSE ARCHITECTURE, AND RECOGNIZING PINEHURST AS THE GOLF CAPITAL OF THE WORLD.

Whereas, the Village of Pinehurst has a high quality of life and has achieved economic success; and

Whereas, Pinehurst's national and international reputation attracts national and international travellers to North Carolina; and

Whereas, the sport of golf is a vital contributor to the economy of Pinehurst, Moore County, and the State of North Carolina; and

Whereas, the Pinehurst Resort and Country Club, with seven golf courses, is the largest golf resort in the world; and

Whereas, the Pinehurst Resort and Country Club has played a significant role in the development of golf in America; and

Whereas, the roots of American resort golf can be traced to the construction of the first nine holes at Pinehurst in 1896; and

Whereas, the Pinehurst Resort and Country Club is the site of numerous amateur and professional golf tournaments; and

Whereas, the North and South Men's and Women's Amateur Tournament, the longest continuous amateur golf event in the United States, has been held at the Pinehurst Resort and Country Club since 1901; and

Whereas, the Pinehurst Resort and Country Club is approaching its Centennial; and

Whereas, the Pinehurst Resort and Country Club's No. 2 golf course is recognized as one of the top 10 golf courses in the world; and

Whereas, Donald Ross, the father of American golf course architecture and the designer of Pinehurst No. 2 and many of the area golf courses, lived in the Village of Pinehurst from 1900 until his death in 1948;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses its deep appreciation for the life and the accomplishments of Donald Ross and for the great service he rendered to the Village of Pinehurst, Moore County, and the State of North Carolina.

Sec. 2. The General Assembly wishes to recognize Pinehurst as the Golf Capital of the World.

Sec. 3. The Secretary of State shall send a certified copy of this resolution to the Mayor of Pinehurst.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.J.R. 249 **RESOLUTION 27**

A JOINT RESOLUTION TO IMPLEMENT A RECOMMENDATION OF THE MENTAL HEALTH STUDY COMMISSION ADOPTING THE CHILD AND ADOLESCENT ALCOHOL AND OTHER DRUG ABUSE PLAN AS POLICY GUIDANCE FOR THE DEVELOPMENT OF SERVICES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly adopts the comprehensive Child and Adolescent Alcohol and Other Drug Abuse Plan approved by the Mental Health Study Commission in December 1992. This adoption by the General Assembly is solely for the purpose of providing policy guidance for the development of services and supports, within the funds available.

Sec. 2. Nothing in this act creates any rights except to the extent that funds are appropriated by the State to implement its provisions from year to year and nothing in this act obligates the General Assembly to appropriate any funds to implement its provisions.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.J.R. 250 **RESOLUTION 28**

A JOINT RESOLUTION TO IMPLEMENT A RECOMMENDATION OF THE MENTAL HEALTH STUDY COMMISSION ENDORSING THE QUALITY IMPROVEMENT REPORT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly endorses as policy guidance the Quality Improvement Report for Mental Health, Developmental Disabilities, and Substance Abuse Services approved by the Mental Health Study Commission in December 1992. This endorsement by the General Assembly is solely for the purpose of providing policy guidance for the Quality Improvement Initiative of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Human Resources.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

H.J.R. 251 **RESOLUTION 29**

A JOINT RESOLUTION TO IMPLEMENT A RECOMMENDATION OF THE MENTAL HEALTH STUDY COMMISSION ADOPTING THE COMPREHENSIVE PLAN FOR SERVICES AND SUPPORTS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES AS POLICY GUIDANCE FOR THE DEVELOPMENT OF SERVICES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly adopts the comprehensive Plan for Services and Supports for Persons with Developmental Disabilities approved by the Mental Health Study Commission in December 1992. This adoption by the General Assembly is solely for

the purpose of providing policy guidance for the development of services and supports, within the funds available.

Sec. 2. Nothing in this act creates any rights except to the extent that funds are appropriated by the State to implement its provisions from year to year and nothing in this act obligates the General Assembly to appropriate any funds to implement its provisions.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

S.J.R. 1017 **RESOLUTION 30**

A JOINT RESOLUTION EXPRESSING OPPOSITION TO A FEDERAL REQUIREMENT TO WITHHOLD FEDERAL-AID HIGHWAY FUNDS UNLESS CERTAIN STATUTES ARE ENACTED TO SUSPEND THE DRIVERS LICENSE OF FELONY CONVICTIONS OF DRUG-RELATED OFFENSES.

Whereas, Section 333 of Public Law 102-143, "Revocation or Suspension of the Drivers' Licenses of Individuals Convicted of Drug Offenses", requires states to enact legislation requiring the revocation or suspension of an individual's drivers license upon conviction of any drug-related offense; and

Whereas, Section 333 requires withholding 5% of certain federal-aid highway funds in the 1994-95 fiscal year and 10% in subsequent years from states that fail to enact legislation; and

Whereas, Section 333 provides the following procedure to avoid the sanctions without enacting the legislation:

"(B) The Governor for the State --

(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the date of enactment of this section a written certification stating that the Governor is opposed to the enactment or enforcement in the State of a law described in subparagraph (A), relating to revocation, suspension, issuance, or reinstatement of drivers' licenses to convicted drug offenders; and

(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i)."; and

Whereas, Senate Bill 154, "License Revoked-Drug Offenses", providing for the revocation of an individual's drivers license upon conviction of any drug-related offense, was introduced during the 1991 Session of the General Assembly and failed to pass; and

Whereas, the federal government should not dictate policy or legislation of this kind for the State of North Carolina; and

Whereas, the Tenth Amendment to the Constitution of the United States provides that: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people";

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly opposes the enactment or enforcement in this State of a law requiring the revocation or suspension of an individual's drivers license upon conviction on any drug-related offense.

Sec. 2. The Secretary of State shall transmit a certified copy of this resolution to the Governor of the State of North Carolina and the Governor shall submit to the United States Secretary of Transportation:

(1) A written certification that he is opposed to the enactment or enforcement of a law related to revocation of a person's drivers license for any drug-related offense; and

(2) A written certification that the legislature has adopted this resolution.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the United States Secretary of Transportation.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

S.J.R. 1299 **RESOLUTION 31**

A JOINT RESOLUTION SETTING THE TIME FOR ADJOURNMENT OF THE 1993 GENERAL ASSEMBLY TO MEET IN 1994, LIMITING THE SUBJECTS THAT MAY BE CONSIDERED IN THAT SESSION, AND PROVIDING FOR ADJOURNMENT SINE DIE OF THE GENERAL ASSEMBLY.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. At 7:00 a.m. on Saturday, July 24, 1993, the House of Representatives and the Senate shall adjourn to reconvene at

noon on Tuesday, May 24, 1994. During that session only the following matters may be considered:

(1) Bills directly and primarily affecting the State budget for fiscal year 1994-95, provided that no appropriations or finance bill may be introduced in the House of Representatives or filed for introduction in the Senate after Tuesday, June 7, 1994, provided that any such measure submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 p.m. on that date and filed for introduction in the Senate or introduced in the House of Representatives by 5:00 p.m. on Thursday, June 9, 1994, shall be treated as if it had met the deadlines established by this subdivision.

(2) Bills and resolutions introduced in 1993 and having passed third reading in 1993 in the house in which introduced, received in the other house, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading, and do not violate the rules of either body.

(3) Bills and resolutions implementing the recommendations of study commissions authorized or directed to report to the 1994 Session. Any bills authorized by this subdivision must be filed for introduction in the Senate or introduced in the House of Representatives no later than 5:00 p.m. on Thursday, May 26, 1994, provided that any such measure submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 p.m. on that date and filed for introduction in the Senate or introduced in the House of Representatives by 5:00 p.m. on Tuesday, May 31, 1994, shall be treated as if it had met the deadlines established by this subdivision.

(4) Any local bill introduced in the House of Representatives or filed for introduction in the Senate by 5:00 p.m. on Tuesday, May 31, 1994, and accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies, provided that any such measure submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 p.m. on that date and filed for introduction in the Senate or introduced in the House of Representatives by 5:00 p.m. on Thursday, June 2, 1994,

shall be treated as if it had met the deadlines established by this subdivision.

(5) Selection, appointment, or confirmation of members of State boards and commissions as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.

(6) Any matter authorized by joint resolution passed during the 1994 Session by two-thirds majority of the members of the House of Representatives present and voting and by two-thirds majority of the members of the Senate present and voting. A bill or resolution filed in either house under the provisions of this subdivision shall have a copy of the ratified enabling resolution attached to the jacket before filing for introduction in the Senate or introduction in the House of Representatives.

(7) Any bills primarily affecting any State or local pension or retirement system, introduced in the House of Representatives or filed for introduction in the Senate by 5:00 p.m. on Tuesday, May 31, 1994, provided that any such measure submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 p.m. on that date and filed for introduction in the Senate or introduced in the House of Representatives by 5:00 p.m. on Thursday, June 9, 1994, shall be treated as if it had met the deadlines established by this subdivision.

(8) Joint resolutions, House resolutions, and Senate resolutions pertaining to Section 5(10) of Article III of the Constitution of North Carolina.

(9) A joint resolution adjourning the 1993 Regular Session, *sine die* on a date earlier than provided by Section 3 of this resolution.

Sec. 2. The Speaker of the House of Representatives or the President Pro Tempore of the Senate may authorize appropriate committees or subcommittees of their respective houses to meet during the interim between sessions to:

(1) Review matters related to the State budget for the 1993-95 biennium,

(2) Prepare reports, including revised budgets, or

(3) Consider any other matters as the Speaker of the House of Representatives or the President Pro Tempore of the Senate deems appropriate,

except that no committee or subcommittee of a house may consider, after the date of adjournment provided in Section 1 of this resolution and before the date of reconvening provided in Section 1 of this resolution, any bill, or proposed committee substitute for such bill, which originated in the other house. A conference committee may meet in the interim upon approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

Sec. 3. The Senate and House of Representatives constituting the General Assembly of 1993 do adjourn *sine die*, on Friday, July 1, 1994, at 4:00 p.m.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

STATE OF NORTH CAROLINA

DEPARTMENT OF STATE,

RALEIGH, JULY 24, 1993

I, RUFUS L. EDMISTEN, Secretary of State of North Carolina, hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.



Secretary of State

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State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 174
AMENDMENT TO EXECUTIVE ORDER NUMBER 162

By the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 2 shall be amended as follows:

Section 2. MEMBERS OF THE COUNCIL

The membership of the Council shall include, but not be limited to, the following persons or their designees:

(1) State Health Director, who will serve as Chairman;

(2) Director of the Division of Medical Assistance, Department of Human Resources;

(3) Director of the Office of State Planning;

(4) Commissioner of Insurance;

(5) State Budget Officer;

(6) Director of the Office of Rural Health and Resources Development, Department of Human Resources;

(7) Director of the Division of Aging, Department of Human Resources;

(8) Chairperson of the Commission for Health Services;

(9) Director of the Division of Facility Services, Department of Human Resources;

(10) Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse, Department of Human Resources;

(11) Chairperson of the State Health Coordinating Council;

(12) President of the Association of Local Health Directors;

(13) President of the North Carolina Hospital Association;

(14) President of the North Carolina Medical Society;

(15) Director of the Duke University Institute for Health Policy;

(16) President of the North Carolina Minority Health Center;

(17) President of Citizens for Business and Industry; and

(18) President of the North Carolina Health Care Facilities Association.

The membership of the Council shall also include one member of the North Carolina House, one member of the North Carolina Senate, and two representatives of private insurance companies doing business within North Carolina.

The following persons or their designees shall serve as ex officio members of the Council:

(1) Director of the State Center for Health and Environmental Statistics;

(2) Executive Director of the Medical Database Commission; and

(3) Director of the Health Policy Unit of the Cecil G. Sheps Center for Health Services Research, University of North Carolina School of Public Health.

All members shall serve at the pleasure of the Governor. All vacancies shall be filled by the Governor.

This Executive Order shall become effective immediately.

Done in Raleigh, this the 30th day of July, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 175
HURRICANE ANDREW RELIEF

WHEREAS, states of emergency have been declared in the States of Florida and Louisiana and the Governors of Florida and Louisiana have requested that the State of North Carolina temporarily waive weight restrictions on the gross weight of trucks transporting food, supplies and equipment to the areas of disaster caused by Hurricane Andrew and weight and license requirements thereon; and

WHEREAS, on August 24, 1992, the United States Department of Transportation declared a regional emergency justifying an exemption from 49 C.F.R. 390-99 (Federal Motor Carrier Safety Regulations) for a period of thirty days in response to Hurricane Andrew; and

WHEREAS, pursuant to Chapter 166A, the North Carolina Emergency Management Act, and by the authority vested in me as Governor of the State of North Carolina by the Constitution and laws of this State, and with the concurrence of the Council of State; and

WHEREAS, for the purpose of relieving human suffering caused by Hurricane Andrew it is ORDERED:

Section 1. That for a period of time beginning immediately until September 28, 1992, the State of North Carolina under the supervision and direction of the Department of Transportation and Division of Motor Vehicles will waive weight restrictions on the gross weight of vehicles transporting food, supplies and equipment to the victims of Hurricane Andrew subject to the following conditions:

(1) Vehicle weight will not exceed the maximum gross vehicle weight criteria established by the manufacturer or 90,000 lbs. gross vehicle weight, whichever is less.

(2) Tandem axle weights shall not exceed 42,000 lbs., and single axle weights shall not exceed 22,000 lbs.

(3) The vehicles will be allowed only on primary and interstate routes to be designated by the Department of Transportation.

(4) The vehicles will, upon entering the State of North Carolina stop at the first available vehicle weight station and produce identification sufficient to establish that the load contained thereon is part of the Hurricane Andrew relief effort.

Section 2. The vehicles described above will be exempt from the vehicle licensing and tax requirements of N.C.G.S. 105, Subchapter 5, Article 36B.

Section 3. As a result of the 24 August 1992 declaration of regional emergency by the United States Department of Transportation and the corresponding exemption from 49 C.F.R. 390-99, nonparticipants in North Carolina's International Registration Plan will be permitted to pass through North Carolina in accordance with the spirit of the exemptions identified by this Executive Order.

Section 4. The North Carolina Department of Transportation shall enforce the conditions set forth in Section 1 and Section 2 in a manner in which would best accomplish the implementation of this rule without endangering the motorists on North Carolina highways.

This Order is effective immediately and shall remain in effect until September 28, 1992.

This the 28th day of August, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 177
EXTENDING THE PROVISIONS OF EXECUTIVE ORDER NUMBER 175

Reference is made to Executive Order Number 175 dated August 28, 1992.

It has been determined that additional Hurricane Andrew relief efforts necessitate an extension of the temporary waiver of weight restrictions on the gross weight of trucks transporting food, supplies and equipment through North Carolina to the areas of disaster caused by Hurricane Andrew and license requirements thereon.

THEREFORE, pursuant to authority granted to the Governor by Article III, Sec. 5(3) of the Constitution, it is ordered:

Executive Order Number 175 is hereby extended, retroactive September 28, 1992, without amendment and shall remain in effect until October 28, 1992.

Done in the Capital City of Raleigh, North Carolina, this 1st day of October, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 178
WAIVING CERTAIN PENALTIES PURSUANT TO CHAPTER 166A OF THE GENERAL STATUTES OF NORTH CAROLINA

WHEREAS, this year's sweet potato crops ("yams") are among the largest in recent years; and

WHEREAS, the recent heavy rainfall has caused an increase in the weight of the yams in the fields due to soil moisture and water saturation; and

WHEREAS, substantial portions of the crops may be lost if they are not removed from the fields soon; and

WHEREAS, there is a substantial likelihood that the farmers of the State will be unable to remove their yams from the fields before crop deterioration occurs (with the equipment now available to them for that purpose) if they are required to adhere to the weight restrictions presently imposed by N.C.G.S. 20-88, 20-96, and 20-118; and

WHEREAS, under the provisions of N.C.G.S. 166A-4(3) and 166A-6(c)(3), the Governor, with the concurrence of the Council of State, may waive the penalties for exceeding the weight limits

imposed by said statutes in the event of an imminent threat of widespread damage from a natural or man-made accidental cause within the meaning of N.C.G.S. 166A-4(3) and 166A-6(c)(3); and

WHEREAS, with the concurrence of the Council of State, I have found that because (i) they must adhere to the weight restrictions of N.C.G.S. 20-88, 20-96 and 20-118, farmers may be unable to remove their yams from the fields soon enough, (ii) their inability to do so likely will result in damages to their crops causing them to suffer losses and, therefore, (iii) there is an imminent threat of widespread damage from a natural or man-made accidental cause within the meaning of N.C.G.S. 166A-4(3);

THEREFORE, pursuant to the authority vested in me by the Constitution and laws of this State and with the concurrence of the Council of State, it is ORDERED:

Section 1. The Division of Motor Vehicles shall waive penalties arising under N.C.G.S. 20-88, 20-96, and 20-118 that otherwise would be assessed against vehicles transporting unprocessed yams to processing facilities on the highways of the State.

Section 2. Notwithstanding the waivers set forth above, penalties shall not be waived under the following conditions:

(1) When the vehicle weight exceeds the maximum gross vehicle weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross vehicle weight, whichever is less.

(2) When tandem axle weights exceed 42,000 pounds and single axle weights exceed 22,000 pounds.

Section 3. The vehicles described above will be exempt from the vehicle licensing and tax requirements of N.C.G.S. 105, Subchapter 5, Article 36B.

Section 4. This Order shall not be in effect on highways of the Interstate Highway System and bridges posted pursuant to N.C.G.S. 136-72.

Section 5. This Order shall be effective immediately and shall remain in effect until November 15, 1992.

Done in the Capital City of Raleigh, North Carolina this the 15th day of October, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 179
COORDINATING COMMITTEE ON THE AMERICANS WITH DISABILITIES ACT

WHEREAS, the Americans with Disabilities Act ("ADA") was enacted by the United States Congress on July 26, 1990 to expand the civil rights of individuals with disabilities in the areas of employment, transportation, public accommodations and communications; and

WHEREAS, the primary objective of the ADA is to require employers and public service providers to eliminate barriers, practices, or policies that may deprive individuals with disabilities of the full use and enjoyment of public buildings, employment, transportation, accomodations, and communications; and

WHEREAS, it is anticipated that the process of removing such barriers would best be effectuated by developing a comprehensive statewide process;

NOW, THEREFORE, by the authority vested in me by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. ESTABLISHMENT

There is hereby established the Coordinating Committee on the ADA.

Section 2. PURPOSE

The Committee shall bring representatives from every state agency together to coordinate each agency's self-evaluation and compliance planning under ADA.

Each agency shall develop and implement forthwith its ADA Compliance Plan. Individuals with disabilities must have full access to public buildings, employment, transportation, accomodations, and communications as soon as possible.

Section 3. DUTIES

The Committee shall be responsible for the following:

(a) coordinating agency compliance with the ADA as it relates to other federal and state laws and regulations affecting individuals with disabilities;

(b) informing and advising state agencies about their obligations under the ADA such as self evaluations, job task analyses, procedures to handle requests for accomodations, facility and communications accessibility, transportation, and deadlines for action;

(c) facilitating the adoption and publication of formal and informal grievance procedures within each agency to promptly and equitably resolve complaints of agency noncompliance with the ADA; with particular emphasis on the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, as appropriate and authorized by law;

(d) supervising the implementation and periodic revision of an ADA Transition Plan for each agency regarding the removal of environmental and communication barriers in state facilities, whether owned or leased;

(e) providing a forum for speakers to inform the Committee and others in state government about developments concerning acceptable accomodations, cost / effectiveness data for equipment and transportation alternatives, hiring practices and caselaw; and

(f) ensuring that its decisions and those of its member agencies in creating their ADA Compliance Plans are made with the input of representatives of organizations which serve disabled persons.

Section 4. MEMBERSHIP

The following individuals or their designees shall serve as members of the Committee:

(1) Lieutenant Governor
(2) Secretary of State
(3) Attorney General
(4) State Treasurer
(5) Superintendent of Public Instruction
(6) Commissioner of Insurance
(7) Commissioner of Agriculture
(8) Commissioner of Labor

(9) State Auditor
(10) President Pro Tempore of the Senate
(11) Speaker of the House of Representatives
(12) Chief Justice of the Supreme Court
(13) President of the University of North Carolina System
(14) President of the System of Community Colleges
(15) Secretary of Economic and Community Development
(16) Secretary of Environment, Health and Natural Resources
(17) Secretary of Crime Control and Public Safety
(18) Secretary of Cultural Resources
(19) Secretary of Human Resources
(20) Secretary of Transportation
(21) Secretary of Correction
(22) Secretary of Administration
(23) Secretary of Revenue
(24) Director of the Office of State Personnel

Section 5. CHAIRPERSON

The Chairperson shall be the Deputy Secretary for Programs in the Department of Administration, who shall serve at the Governor's pleasure. The Chairperson may designate smaller subcommittees, divided according to expertise, to work on pertinent topics and report to the full Committee.

Section 6. MEETINGS

The Committee shall meet not less than quarterly at the call of the chairperson.

Section 7. QUORUM

A simple majority of the members present shall constitute a quorum for the purpose of conducting business.

A vote will require a simple majority of the members of the Committee.

Section 8. ANNUAL REPORT

The Committee shall prepare a report to the Governor on or before October 1, 1993 and annually thereafter.

Section 9. ADMINISTRATION

Members of the Coordinating Committee shall receive necessary travel and subsistence expenses in accordance with the provisions of N.C.G.S. 120-3.1 or 138-5.

The Department of Administration shall provide administrative and staff support services required by the Coordinating Committee. While no one from the Governor's

Advocacy Council for Persons with Disabilities shall be a member of the Committee, the GACPD shall support the Committee's work with technical assistance and as an information clearinghouse.

Section 10. EFFECTIVE DATE

This Executive Order shall be effective immediately.

Done this the 22nd day of October, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 180
TRANSFERRING THE GOVERNOR'S EXTRADITION SECRETARY TO THE DEPARTMENT OF JUSTICE

HAVING found that the duties of the Governor's Extradition Secretary, now located in the Office of the Governor, can be more economically, efficiently and effectively performed by that office being removed from the Office of the Governor and transferred to and relocated in the Department of Justice under the supervision of the Attorney General;

THEREFORE, pursuant to the authority and powers given by Article III, Section 5(10) of the Constitution and North Carolina General Statutes 143A-8 and 143B-12, **IT IS ORDERED:**

Section 1. The Governor's Extradition Secretary, now located in the Office of the Governor, is hereby removed from and transferred to and relocated in the Department of Justice.

Section 2. Reports of the transfer shall be made as required by N.C.G.S. 143B-12(b). My Chief of Staff is directed to do the same.

Section 3. This Order shall become effective immediately.

Done in Charlotte, North Carolina, this the 27th day of October, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina

JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 181
AMENDING EXECUTIVE ORDER NUMBER 178
WAIVING CERTAIN PENALTIES PURSUANT TO CHAPTER 166A
OF THE GENERAL STATUTES OF NORTH CAROLINA

By the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Executive Order Number 178 is hereby amended as follows:

Section 4 of said Executive Order is hereby deleted in its entirety and the following language substituted therefor.

Section 4.

This Order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

This Executive Order shall become effective immediately.

Done in Raleigh, this the 27th day of October, 1992.

James G. Martin
James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 182
ACCESSIBILITY OF ELECTRONIC EQUIPMENT
BY PERSONS WITH DISABILITIES

WHEREAS, advances in electronic equipment have greatly expanded the ability to accommodate the functional limitations of users with visual, auditory, and mobility impairments;

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

SECTION 1.

(a) To implement cost-effective accommodations which ensure that disabled persons have reasonable access to electronic equipment and equivalent access to information technology, every state agency shall follow the Federal Information Resources Management Regulations, published by the General Services Administration in 41 C.F.R. Chapter 201, and in Bulletins C-8 and C-10 (attached).

(b) The Department of Human Resources, Division of Vocational Rehabilitation Services and the Coordinating

Committee on the Americans with Disabilities Act shall assist the agencies in implementing this Order.

SECTION 2.

This Order is effective immediately.

Done in Raleigh, North Carolina, this the 19th day of November, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

January 30, 1991

FIRMR BULLETIN C-8

TO: Heads of Federal agencies

SUBJECT: Information accessibility for employees with disabilities

1. Purpose. This bulletin provides information and guidance regarding agencies' responsibility to meet the special Federal information processing (FIP) resource accommodation needs of individuals with disabilities.

2. Expiration date. This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. Contents.

Topic	Paragraph
Related material	4
Information and assistance	5
Definitions	6
Acronyms	7
Public Law 99-506	8
COCA	9
General	10
Agency responsibilities	11
COCA services	12
Cancellation	13
Functional Specifications	Attachment A

4. Related material.

a. FIRMR 201-18.001
b. FIRMR 201-20.103-7
c. GSA handbook, - "Managing End User Computing for Users with Disabilities"
d. FIRMR Bulletin C-10 - "Telecommunications Accessibility for Hearing and Speech Impaired Individuals"

TC 90-1

Attachment

FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATION
APPENDIX B

5. Information and assistance.

a. Technical

General Services Administration
Clearinghouse on Computer Accommodation (KGDO)
18th and F Streets, NW
Washington, DC 20405

Voice or tdd: FTS 241-4906 or 202-501-4906.

b. Policy

General Services Administration
Regulations Branch (KMPR)
18th and F Streets, NW
Washington, DC 20405

Telephone: FTS 241-3194 or (202) 501-3194.

6. Definitions.

"Computer accommodation" means the acquisition or modification of FIP resources to minimize the functional limitations of employees in order to promote productivity and to ensure access to work-related information resources.

"Information accessibility" means the application or configuration of FIP resources in a manner that accommodates the functional limitations of individuals with disabilities so as to promote productivity and provide access to work-related or public information resources.

"Handicapped individuals" or "individuals with disabilities" means qualified individuals with impairments, as cited in 29 CFR 1613.702(f), who can benefit from electronic office equipment accessibility.

"Special peripheral" is defined in Section 508 of Pub. L. 99-506 as "a special needs aid that provides access to electronic equipment that is otherwise inaccessible to a handicapped individual."

7. Acronyms.

COCA	Clearinghouse on Computer Accommodation
DSO	Designated Senior Official
FIP	Federal Information Processing

8. Public Law 99-506. In 1986, Congress reauthorized the Rehabilitation Act of 1973, as amended (Pub. L. 99-506, 29 U.S.C. 794d). Section 508, as incorporated into the Act, mandates that guidelines be established to ensure that handicapped individuals may use electronic office equipment with or without special peripherals and that agencies comply with these guidelines in acquiring electronic equipment.

9. COCA. In 1985, GSA's Information Resources Management Service (IRMS) established an information resource center called COCA, to assist Federal agencies in providing information accessibility to individuals with disabilities.

10. General.

a. Accessibility. Workstations for Federal employees with sensory, cognitive, or mobility impairments may be equipped with special peripherals or software that provide access to computer technology, primarily microcomputers. This accessibility is a necessary link that enables handicapped employees to function efficiently and effectively on the job.

b. Equivalent access. Disabled individuals and non-disabled individuals should be provided equivalent access to electronic office equipment. FIP resources, particularly microcomputers, provide enhancement features, such as text enlarging and speech input and output, allowing disabled individuals to accomplish tasks previously impossible for them. For example, the inherent flexibility of microcomputers permits their adaptation to meet the specific needs of disabled individuals through the use of braille printers, spoken screen review, and keyboard replacement devices.

c. Functional specifications. Attachment A presents specifications that are organized by functional requirement into three categories: input, output and documentation. These specifications reflect the major areas that need to be considerd during planning and acquisition.

d. Accessibility alternatives. Accessibility solutions range from third-party hardware and software add-ons, such as "layered" solutions, to hardware "built-ins" and operating system

enhancements. Agencies should attempt to provide the same equipment to all of their employees, whether or not they are disabled. For that reason, "built-in" accessibility solutions are preferable to "layered" solutions. Layering involves adding layers of software between the end-user and the operating system or application software. While this often complex solution may have advantages, such as increased function and performance, it can also have serious disadvantages. Disadvantages include increased costs, greater difficulty in maintaining software updates at the operating system level, and increased costs to train employees to utilize dissimilar equipment at different sites within the agency. For these reasons, layering should be selected as an accessibility solution only after careful analysis of its merits relative to that of "built-in" solutions.

11. Agency responsibilities.

a. DSO. The agency DSO for Federal information processing resources is the individual primarily responsible for ensuring electronic office equipment accessibility for current or prospective employees with disabilities. This responsibility also includes providing access to Federal public information resources for individuals with disabilities. The DSO or an authorized representative should monitor progress toward achieving electronic equipment accessibility goals. The Federal Information Resources Management Review Program is one means of monitoring this progress.

b. FIRMR requirement. The FIRMR requires that agencies shall provide FIP resource accessibility to individuals with disabilities and that agencies consider the guidance contained in FIRMR bulletins concerning this subject. This action is essential to enable handicapped employees to perform as productive employees.

c. Coordinated effort required. Agency management and technical personnel need to work closely with contracting officials when contracting for new or additional FIP resources to ensure accessibility to FIP resources by individuals with disabilities. Acquisition, management and technical personnel should:

(1) Provide to contracting officials, for inclusion in the solicitation, an inventory and description of any accommodation hardware or software currently being used with the resources scheduled for replacement or modification.

(2) Specify the need for a plan from prospective offerors that ensures functionally equivalent or better access to

and use of proposed replacement resources.

(3) Specify the need for technical assistance in resolving problems in providing computer accommodation resources.

(4) Specify the need for the Government to be permitted to install additional accommodation devices, peripherals, or software that may be acquired from a third party, without voiding the maintenance and warranty agreements of the contract, provided such devices or peripherals conform to the electrical specifications of the system and can be connected through standard expansion slots or peripheral ports.

(5) Develop functional specifications to meet the access needs of individuals with disabilities (see Attachment A).

d. Consult GSA handbook. Agency managers determining accommodation strategies for FIP resource accessibility should consult the GSA handbook "Managing End User Computing for Users with Disabilities" for guidance. This handbook is available from COCA.

12. COCA services. Upon request for assistance, COCA will:

a. Respond to requests for general information on frequently used hardware/software and workstation furnishings to accommodate individuals with disabilities.

b. Assist agencies with researching specific hardware, software and communications problems associated with an employee's computer accommodation requirements.

c. Provide on-going consultative/technical assistance to agencies during planning, acquisition, and installation of individual and agency wide office automation systems; and

d. Conduct workshops on computer accommodation procedures.

13. Cancellation. FIRMR Bulletins 42, 48, and 56 are canceled.

Thomas J. Buckholtz

Thomas J. Buckholtz
Commissioner
Information Resources
Management Service

FUNCTIONAL SPECIFICATIONS

These specifications are organized by functional requirement into three categories: input, output and documentation. This organization reflects the major areas that need to be considered during planning and acquisition. The capabilities set forth in these specifications are currently available from industry in various degrees of functional adequacy, except for access to screen memory for translating bit-mapped graphic images.

GSA will update this attachment to keep pace with technological advances and to address other types of FIP resources.

1. Input alternatives. Access problems concerning the input interface to a microcomputer differ according to the type and severity of an employee's functional limitation. Some users with disabilities are capable of using a keyboard, if it can be modified slightly. Others require an alternative input strategy. The following is an overview of common input alternatives and other input functional requirements that should be considered:

a. Multiple simultaneous operation. Microcomputers have many commonly used functions that require simultaneous striking of multiple keys or buttons. Sequential activation control provides an alternative method of operation by enabling a user to depress keys or buttons one at a time to execute the same function.

b. Input redundancy. Some programs require a "mouse" or other fine motor control device for input. Some users with motor disabilities cannot operate these devices. An input redundancy feature permits the functions of these devices to be performed by the keyboard or other suitable alternative such as voice input.

c. Alternative input devices. The capability to connect an alternative input device can be made available to a user who is not able to use a modified standard keyboard. This feature supplements the keyboard and any other standard input system used. The alternative input capability consists of a port (serial, parallel, etc.) or connection capability allowing an accommodation aid to be connected to the system to augment or replace the keyboard. For example, an alternative input device, such as a switch, eye scan, or headtracking system, may be customized to provide the most effective method of input for a user while supporting transparent hardware emulation for standard input devices, such as the keyboard and the mouse.

and use of proposed replacement resources.

(3) Specify the need for technical assistance in resolving problems in providing computer accommodation resources.

(4) Specify the need for the Government to be permitted to install additional accommodation devices, peripherals, or software that may be acquired from a third party, without voiding the maintenance and warranty agreements of the contract, provided such devices or peripherals conform to the electrical specifications of the system and can be connected through standard expansion slots or peripheral ports.

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d. Key repeat. A typical microcomputer generates repetitions of a character if the key for that character remains depressed. This is a problem for users without sufficient motor control. A key repeat feature can give a user control over the repeat start time and rate by allowing the timing parameters to be extended or the repeat function to be turned off.

e. Toggle key status control. Microcomputer toggle keys provide visual indications of whether they are on or off. A toggle key status feature provides an alternative, non-visual means of showing the on or off status of a toggle key.

f. Keyboard orientation aids. To orient a visually impaired user to a particular keyboard, a set of tactile overlays should be available to identify the most important keys. The tactile overlays can be in the form of keycap replacements or transparent sticky tape with unique symbols to identify the various keys.

g. Keyguards. To assist a motor-disabled user, a keyguard should be available to stabilize movements and help ensure that the correct keys are depressed. A keyguard is a keyboard template with holes corresponding to the location of the keys.

2. Output alternatives. Some users with disabilities need an alternative output to be able to functionally use FIP resources. The following is an overview of common output alternatives, and other output functional requirements, that should be considered:

a. Auditory output. The auditory output capability on current microcomputers is sufficient to beep and play music. However, some users with disabilities may require a speech capability. A speech synthesizer is required to generate speech on today's computers. The capability to support a speech synthesizer should continue to be available in future generations of computers, or this capability may be internalized through an upgrade of the computer's internal speaker. The speech capability should include user-adjustable volume control and a headset jack.

b. Information redundancy. Currently, several programs activate a speaker on the microcomputer to provide information to the user. Some programs do not have the capability to present this information visually to the hearing-impaired user. An information redundancy feature presents a visual equivalent of the auditory information provided.

c. Monitor display. The requirement to enhance text size, reproduce text orally or in braille, or modify display characteristics is crucial for some users with visual disabilities. To ensure that this access continues, the following capabilities are required:

(1) Large print display. There should be a means for enlarging a portion of the screen for a low-vision user. This process uses a window or similar mechanism allowing magnification to be controlled by a user. A user can invoke the large-print display capability from the keyboard or control pad for use in conjunction with any work-related applications software. If applications software includes graphics, enlargement of graphic displays should also be available.

(2) Access to visually displayed information. The capability to access the screen is necessary to support the speech or braille output requirement of many blind users. Currently, blind users are able to select and review the spoken or braille equivalent of text from any portion of the screen while using standard applications software. Third-party vendors should have access to the screen contents in a manner that can be translated and directed to any internal speech chip, a speech synthesizer on a serial or parallel port, or a braille display device. Information presented pictorially also needs to be available in such a manner that, as software sophistication improves, it may eventually be translated using alternative display systems.

(3) Color presentation. When colors must be distinguished in order to understand information on the display, color-blind end users should be provided with a means of selecting the colors to be displayed.

3. Documentation. Access to documentation for computer technology in a usable format should be provided for Federal employees with disabilities. Braille, large print, or ASCII disk equivalents of standard manuals are options to be considered.

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

January 30, 1991

FIRMR BULLETIN C-10

TO: Heads of Federal agencies

SUBJECT: Telecommunications accessibility for hearing and speech impaired individuals

1. Purpose. This bulletin provides guidelines for acquiring products and services that provide telecommunications accessibility for hearing and speech impaired individuals for communication with and within Federal agencies. This bulletin also provides general information regarding responsibilities for accommodating the needs of those with hearing and speech impairments.

2. Expiration date. This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. Contents.

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GSA responsibilities and actions	10
Agency responsibilities	11
Cancellation	12
Federal Information Relay Service (FIRS)	Attachment A
Federal Telecommunications Devices for the Deaf (TDD) Directory	Attachment B
Agency Telecommunications Accessibility Planning	Attachment C

4. Related material.

a. FIRMR 201-18.002
b. FIRMR 201-20.103-7
c. FIRMR Bulletin C-8

TC 90-1

Attachments

FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATION
APPENDIX B

5. Information and assistance.

a. General inquiries about the contents of this bulletin or information concerning updates should be directed to:

General Services Administration
Regulations Branch (KMPR)
18th and F Streets, NW
Washington, DC 20405

Telephone: (202) 501-3194 or FTS 241-3194 (v).
(202) 501-0657 or FTS 241-0657 (tdd).

b. For technical advice and assistance regarding accommodation strategies for employees with disabilities, contact:

General Services Administration
Clearinghouse on Computer Accommodation
18th and F Streets, NW
Washington, DC 20405

Telephone: (202) 501-4906 or FTS 241-4906 (v/tdd).

c. The FIRS staff may be contacted regarding information on FIRS or the Federal TDD Directory at:

General Services Administration
Federal Information Relay Service (FIRS)
National Capital Region
7th and D Streets, SW
Washington, DC 20407

Telephone: (202) 708-6100 or FTS 458-6100 (v/tdd).

6. Acronyms.

ATBCB	Architectural and Transportation Barriers Compliance Board
COAT	Council on Accessibility Technology
COCA	Clearinghouse on Computer Accommodation
FIRS	Federal Information Relay Service
Pub. L.	Public Law
TDD	Telecommunications Device for the Deaf

7. Definition.

"Information accessibility" means the application or configuration of FIP resources in a manner that accommodates the functional limitations of individuals with disabilities so as to promote productivity and provide access to work-related or public information resources.

8 Background. The Telecommunications Accessibility Enhancement Act of 1988 (Pub. L. 100-542, 102 Stat. 2721) charged the General Services Administration (GSA) with assuring that the Federal telecommunications system be fully accessible to hearing and speech impaired individuals. Included among the provisions of this law is the requirement that GSA prescribe regulations to help assure such accessibility. In consultation with COAT, GSA has developed these guidelines as well as related regulatory provisions in the FIRMR to comply with this statutory mandate. This bulletin will be revised periodically to keep pace with technological advancements and as dictated by agency compliance with FIRMR policies and procedures.

9 General.

a. Individuals with hearing and speech impairments should be provided access to Federal telecommunications services and facilities. Technological advances, such as the TDD, make this possible. A TDD is a machine that uses typed input and output, usually with a visual text display, to enable individuals with hearing or speech impairments to communicate over a telecommunications network.

b. Technological advances for non-disabled individuals may have an even greater long-term effect on improving telecommunications accessibility for those with hearing and speech impairments. Such advances include electronic mail; facsimile; teleconferencing; LAN-based video imaging; text-based information services and messaging; and remote, real-time transcription/translation capabilities. Many of these services are available to agencies through FTS2000, GSA's long-distance telecommunications service. GSA's TDD relay service will also improve the ability of those with hearing and speech impairments to access Federal agencies. The flexibility inherent in these new telecommunications capabilities makes it possible to accommodate the special requirements of speech and hearing impaired individuals.

10. GSA responsibilities and actions.

a. In accordance with Pub. L. 100-542, GSA is required to:

(1) Assume responsibility for the operation of the pilot Federal telecommunications relay system operated by the Department of the Treasury and the Architectural and Transportation Barriers Compliance Board (ATBCB). Attachment A contains information on this system.

(2) Assemble, publish, and maintain a directory of TDD and other devices used by Federal agencies and publish access numbers for TDD's and other devices in Federal telephone directories. Attachment B contains information on the Federal TDD Directory.

(3) In consultation with the ATBCB, adopt the design of a standard logo to indicate the presence of TDD equipment in Federal buildings.

(4) Jointly with the FCC, promote research to reduce the cost and improve the capabilities of equipment for providing telecommunications accessibility for those with hearing and speech impairments.

(5) Consider technological improvements in telecommunications accessibility devices when planning future alterations and modifications to the Federal telecommunications system.

b. GSA solicitations for local telecommunications services or equipment will include specifications that require vendors to provide services or equipment to ensure accessibility for hearing and speech impaired individuals.

c. GSA's COCA staff will assist Federal agencies in identifying strategies to accommodate the telecommunications needs of their employees with disabilities.

11 Agency responsibilities. Agencies are responsible for:

a. Assessing telecommunications accessibility for individuals with hearing and speech impairments and developing specifications for solicitations. Attachment C provides guidance on how to fulfill these responsibilities.

b. Publishing access numbers for TDD and TDD-related devices in agency telephone directories and providing such numbers to GSA for inclusion in the Federal TDD Directory in accordance with the procedures in Attachment B of this bulletin.

c. Displaying in their buildings or offices the standard logo specified by GSA for indicating the presence of TDD or TDD-related equipment. In accordance with the Federal Acquisition Regulation, Part 8, the mandatory source of supply for standard logo signs is UNICOR, Federal Prison Industries, Inc. (FPI). Prior approval from FPI is required before using any other source of supply. Purchase Orders should be submitted to: UNICOR, Federal Prison Industries, Inc. 320 First Street, NW., Washington, DC 20534. (202) 724-8239.

12. Cancellation. FIRMR Bulletin 63 is canceled.

Thomas J. Buckholtz

Thomas J. Buckholtz
Commissioner
Information Resources
Management Service

FEDERAL INFORMATION RELAY SERVICE (FIRS)

1. Background. In 1986, the Federal TDD Relay Exchange Service was initiated as a pilot project of the ATBCB and the Department of the Treasury. Pub. L. 100-542 required that GSA assume responsibility for this pilot relay service. GSA began operation of its own relay system, called FIRS, on March 20, 1989. GSA has since expanded its relay system by adding additional operators and nationwide toll-free (800) service to allow individuals with hearing and speech impairments to communicate with and within the Federal Government.

2. Description of service. FIRS allows communication between hearing and non-hearing individuals through a GSA operator relaying messages between the two parties. The GSA operator uses a computer that is configured to accept incoming TDD calls to converse with hearing or speech impaired individuals and a telephone to converse with hearing individuals. At least one of the individuals whose message is being relayed must be conducting official business of the Federal Government. Hearing individuals may also originate calls over FIRS. The relay's operating hours are from 8 a.m. to 7 p.m. EST, Monday through Friday, except on Federal holidays. The local number for the TDD service is (202) 708-9300 (v/tdd). The nationwide number is (800) 877-8339 (v/tdd).

3. Agency responsibilities. Users of FIRS must assume certain responsibilities in order to assure the most efficient operation of the system. Future revisions of this bulletin and a brochure on the use of FIRS will explain these responsibilties.

4. Information and assistance. Information and assistance regarding the FIRS or how agencies might establish their own TDD relay systems should be addressed to:

General Services Administration
Federal Information Relay Service
National Capital Region
7th and D Streets, SW
Washington, DC 20407

Telephone (202) 708-6100 or FTS 458-6100 (v/tdd).

FEDERAL TDD DIRECTORY

1. Purpose. The purpose of the Federal TDD directory is to provide a single source where access numbers can be found for all Federal agency TDD and TDD-related equipment.

2. Description. The directory will be published by GSA on a regular basis and will provide Federal agency TDD accessible numbers. It will also provide information on GSA's FIRS and other services provided for hearing and speech impaired individuals.

3. GSA Responsibilities. GSA will maintain and update the TDD directory. The directory will be made available electronically on a regular basis and periodically in paper form.

4. Agency Responsibilities. Agencies must:

a. Provide accurate and current TDD numbers to GSA to the address listed below on a regular basis for publishing in the Federal TDD directory. This may be facilitated by establishing an agency contact point for TDD number collection.

b. Publish TDD accessible numbers and other appropriate information in agency telephone directories.

5. Information and assistance. Information and assistance on issues dealing with the Federal TDD directory should be addressed to:

General Services Administration
Federal Information Relay Service
National Capital Region
7th and D Streets, SW
Washington, DC 20407

Telephone: (202) 708-6100 or FTS 458-6100 (v/tdd).

AGENCY TELECOMMUNICATIONS ACCESSIBILITY PLANNING

1. Assessing telecommunications accessibility. Agency managers should be aware of the many different solutions for providing telecommunications accessibility for individuals with speech or hearing impairments. Accommodation needs vary by individual, communication situation, and functional job requirements. Interviews should be conducted with individual employees to identify and accommodate the employee's needs relative to one-on-one communications, telephone usage, travel, meetings, and training. Surveys may also be useful to determine how best to accommodate those with hearing and speech impairments who may need to communicate with the agency. The whole range of telecommunications and computer-based capabilities should be explored as both technologies are playing an increasingly important role as accommodation solutions for individuals in a wide variety of telecommunication situations. Agencies must also follow the applicable policies and procedures of FIRMR paragraphs 201-18.002(c) and 201-20.103-7(c).

2. Accessibility solutions. After a requirements analysis encompassing the needs of speech and hearing impaired individuals has been conducted, agencies should incorporate functional performance specifications into solicitations or take other action to satisfy identified requirements. Following are accessibility solutions that agencies may consider in their planning. GSA local service telecommunications contracts will contain specifications regarding TDD and TDD-related equipment and may also be referred to for guidance in this area.

a. Public information services. Individuals with speech and hearing impairments must be able to access agency information services. In the current environment, this requirement can be met with a TDD accessible telephone line and related end-user equipment (TDD or a microcomputer configured to support TDD access) at each office that has been established to respond to public inquiries. If the TDD number is not a dedicated line, the incoming call sequencing system must be able to acknowledge a TDD call, send a wait message to the caller, and accept the call in sequence. In addition, as agencies develop proposals for improving information services to the public, agency plans should include the telecommunications requirements of persons with speech and hearing impairments. For example, if an automated information service with prerecorded voice messages is being considered, plans must be made for providing the same information in a text messaging mode that would support equivalent

information access by TDD users. This design flexibility would provide for access by hearing impaired individuals and would also benefit hearing individuals who prefer to access information visually through microcomputers rather than voice messages on the telephone. The text mode (electronic bulletin board) should be accessible through a dedicated line unless a single-line configuration is available that can distinguish between a human voice or machine-based inquiry and respond appropriately with audio or text response.

b. Amplification.

(1) A hearing impaired employee will usually know whether telephone amplification is beneficial and what type is most useful. Many hearing aids have a telephone setting that can amplify sound, if an appropriate handset is used. Vendors can provide a handset with the appropriate magnetic field intensity to be compatible with this type of hearing aid setting. Battery powered, portable handset amplifiers are also available for calls made at other phones and on travel. The amplifier can slip over the handset of most telephones. Speech impaired individuals may benefit from telephone handsets that amplify the volume of their voice.

(2) Portable telephone adapters can increase the magnetic field intensity of telephones that do not otherwise emit sufficient magnetic leakage to be picked up by the telephone switch of the hearing aid.

(3) The Hearing Aid Compatibility Act of 1988 (Pub. L. 100-394) requires that, with certain exceptions, all telephones, whether manufactured for use in the United States, or imported, "provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility."

c. Telecommunications devices for the deaf. For an employee who cannot use an amplified telephone, a TDD will be required to support work-related needs. A TDD permits a hearing or speech impaired person to communicate over a standard telephone with another TDD user or through a relay operator to reach a non-TDD user. A standard microcomputer can be configured to function as a TDD through the addition of special hardware and software that supports Baudot, the code used by most TDD's. Enhancing a microcomputer to serve a TDD function is becoming a

viable option. A computer-based solution should reflect a user's requirements and allow call announcement and pick-up without exiting other microcomputer application programs. Although still in wide use, TDDs that support Baudot only are considered obsolete technology.

d. TDD relay service. An agency with a large number of hearing or speech impaired employees or clients may elect to establish a TDD relay system for the agency's own use. A TDD relay system is a service which utilizes hearing operators to transmit TDD messages from hearing impaired individuals to hearing individuals. The GSA FIRS staff can provide advice on how to establish such a system.

e. Signalling devices. The sounds in the individual's work area that should be translated into non-auditory signals must be determined. Signalling devices can be installed that provide visual signals and/or vibrations to supplement the auditory signals of different sounds in a room, such as a telephone ringing, equipment malfunctioning, or a computer beeping a warning message. For some individuals, tone ringer devices that convert the ring of telephones into a frequency range more easily heard are beneficial. Paging capabilities provide a flexible means for sending text messages to a hearing impaired individual.

f. Electronic mail. Electronic mail presents no barrier to communication by speech impaired or hearing impaired individuals because it is a visual process only. Electronic mail systems should include a feature that provides an auditory and visual signal to announce an incoming call and the option for interactive conversation mode or messaging mode if the receiving party isn't available.

g. Voice mail. Voice mail may be a useful option for a TDD user who is able to speak. Spoken messages could be sent independent of a relay operator. Repeated telephone calls to reach a party are eliminated because such a system typically continues to place the call until the message is received. A voice mail message would be relayed to the hearing impaired individual in a manner similar to the way telephone messages are usually handled.

h. Facsimile. Sending hard copy documents or handwritten notes through a facsimile machine also provides a valuable

alternative to telephone messaging for some communications situations. Facsimile (commonly referred to as fax) is the electronic transmission of letters and pictures over regular telephone lines. Fax systems should provide line status information in a visual manner (either text display or status lights) for feedback to individuals not able to benefit from auditory status information due to hearing loss or a noisy environment. A microcomputer card option may be a viable alternative to a stand-alone fax machine for individuals that usually need to transmit data that has been generated on a computer. A combination fax machine/telephone may also be an alternative to a stand-alone fax machine.

i. On-site and remote interpreter services. Professional sign language interpreters are available on a contractual basis to accommodate hearing impaired people who communicate using American Sign Language. Hearing impaired individuals and their supervisors should develop a plan to ensure that interpreter services are available when necessary. Currently, interpreters are required to be on-site when interpreting at meetings, conferences, and courses. The emergence of video-phones, teleconferencing and LAN-based video imaging capabilities may provide opportunities for more comprehensive and cost-effective remote interpreting services. This will be achieved when agencies are able to purchase commercially available teleconferencing equipment that supports the minimum scan rate necessary to transmit sign language.

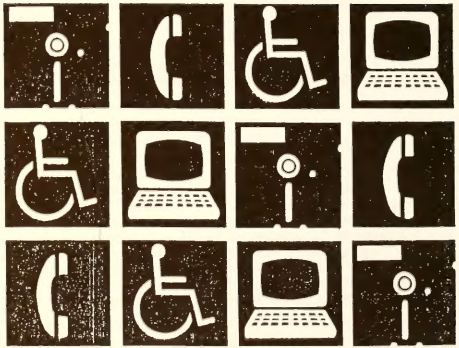
j. Augmentative communication devices. Some individuals with speech impairments use augmentative communication devices. These devices are typically computer-based, portable, and include a speech output capability. Depending upon the individual's work-related requirements, a second communication device might be used with a recorded message to respond to incoming calls and alert the caller that a computer-based synthesized voice will be used during the conversation.

3. Information and assistance. Information and assistance requests dealing with telecommunications accessibility for hearing and speech impaired individuals should be addressed to:

General Services Administration
Clearinghouse on Computer Accommodation
18th and F Streets, NW
Washington, DC 20405

Telephone: (202) 501-4906 or FTS 241-4906 (v/tdd).

Access To Information Technology By Users With Disabilities



Initial Guidelines

October 1987

Department of Education
National Institute on Disability
and Rehabilitation Research

General Services Administration
Information Resources
Management Service

3139

Carol G. Cohen
National Institute on Disability & Rehabilitation Research
U.S. Department of Education

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2705

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On October 21, 1986, the Department of Education (ED) and the General Services Administration (GSA) were directed by Congress (Public Law 99-506) to develop agency procurement guidelines to ensure access to electronic office equipment by individuals with disabilities. This report presents initial management and procurement guidance to federal agencies. It was developed jointly by ED and GSA in consultation with an advisory committee and individuals from the electronics industry, agencies, and the disabled community.

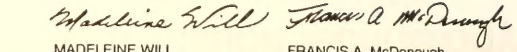
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EXECUTIVE SUMMARY

In 1986, Congress mandated that agencies formally assume responsibility for ensuring that office equipment, whether purchased or leased, be accessible by individuals with disabilities. This document details the implementation plan for this statute (Section 508, P.L. 99-506) together with the initial management and procurement guidance to agencies regarding electronic equipment accessibility. This guidance also provides early information to industry regarding the direction in which the government is moving.

Significant productivity and human resource benefits accrue to government, industry, and individuals with disabilities when standard information technology can be readily enhanced to support all users. Current microcomputers can be adapted to accommodate the special access requirements of most users with disabilities. In addition, many emerging access technologies used by individuals with disabilities today e.g., voice input/output and enhanced keyboard and monitor capabilities, may be beneficial to all users as the technologies mature.

In 1984, the National Institute on Disability and Rehabilitation Research of the Department of Education (ED) established a Government-Industry Task Force to identify ways of designing computers to make them usable by a larger portion of the population. Also in 1984, the General Services Administration (GSA) established the Interagency Committee for Computer Support of Handicapped Employees and the Clearinghouse on Computer Accommodation to advance the management and use of information technology in order to promote the productivity and achievement of Federal employees with disabilities.

These joint ED and GSA guidelines reflect the first-hand experiences of these agencies during the past three years, as well as consultation with the electronics industry, other agencies, and the disabled community during guidelines development. The guidelines address management responsibilities and functional performance specifications for achieving accessibility. It is anticipated that these guidelines and all related activities will continue to evolve in the years ahead as information technology advances and as the government gains additional experience in applying technology to meet the requirements of individuals with disabilities.

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Introduction

In 1986, Congress re-authorized the Rehabilitation Act of 1973, as amended, (Public Law 99-506) adding Section 508 on electronic equipment accessibility " . . . to insure that handicapped individuals may use electronic office equipment with or without special peripherals". Congress has mandated that guidelines for electronic equipment accessibility be established and adopted and that agencies shall comply with these guidelines with respect to electronic equipment, whether purchased or leased.

The initial guidelines that follow address management responsibilities for electronic equipment accessibility and functional performance specifications. The guidelines interpret Congress' intent to mean that future government procurements and leasing of equipment shall assure electronic accessibility such that: the disabled end user shall have access to the same data bases, operating, and application programs; shall be equipped with adaptive programs and devices to support his or her disabilities; shall have computing capability not appreciably less than that of non-disabled end users in the same position and office; and shall be supported in manipulating data so as to attain end results equivalent to the non-disabled user. Electronic equipment which is part of a telecommunications system shall permit disabled end users to transmit and receive messages in a form amenable to their disabilities and having a content comparable to messages transmitted by non-disabled end users.

The above shall apply to all government agencies, and an agency's lack of accessible electronic office equipment shall not be a rationale for denying employment, promotion, or transfer.

To achieve the intent of Congress, the government shall establish accessibility policies and procedures for planning, management, procurement, and compliance which complement current information resources management activities, and management practices generally. This first version of the guidelines is an initial step. It is intended to set a tone and to provide early guidance to industry on the direction in which the government plans to move in the months and years ahead. As experience is gained, and as technology emerges, these guidelines will continue to evolve.

Providing electronic equipment accessibility for individuals with disabilities who have special needs is an idea whose time has come. Of all the electronic office equipment technologies, microcomputers may have the greatest current and long term potential for individuals with disabilities. While many individuals with disabilities will not need special equipment, others will. Due to the inherent flexibility of microcomputer technology, many users with vision or motor impairments, who cannot benefit from commonly used computer displays or keyboards, have alternatives readily available e.g., large print and braille displays, spoken input and output, and keyboard enhancement and replacement products. Fueled by this potential of microcomputer technology in the office, there is action in many areas. Executives and others working independently in central agencies, line agencies, in Congress, and in industry have taken important actions to begin to provide electronic equipment accessibility to individuals with disabilities. The Rehabilitation Act of 1973, as amended, is serving as a catalyst to provide a comprehensive and longer range view of the possibilities.

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Background

In 1984, the National Institute on Disability and Rehabilitation Research (NIDRR), the Office of Special Education and Rehabilitative Services, Department of Education, in conjunction with the White House, took the initiative to begin a process of bringing computer manufacturers, developers, and consumers together to address the question of access and use of standard computers and computer software by persons who have disabilities.

An initial meeting was held on February 24, 1984, at the White House. The objective of the meeting was to familiarize companies with access problems and to solicit their support in a cooperative effort to address the problems. The meeting resulted in recognition of the problems, and a request by manufacturers for more information about disabilities, current barriers to the use of standard computers, and solution strategies that manufacturers should consider.

Subsequent to this meeting, briefings were held with manufacturers, and a White Paper was developed and distributed in preparation for a second meeting on October 24-25, 1985. This meeting consisted of a one and one-half day work session followed by a reporti session at the Rayburn Building (Capitol Hill. Computer firms represented included Apple, AT& Digital Equipment Corp.,Hewlett Packard, Honeywell, IBM, and Tandy Corporation.

As a result of this second meeting government/industry task force w formed. Now, two years later, the task force continues to work to identify ways that industry can improve the design of computers that they will be usable by a larg portion of the population.

Additional information about task force achievements and participa is available from NIDRR.

Authorities and Responsibilities

Section 508 of Public Law 99-506 places new responsibilities on the Department of Education and the General Services Administration. These new responsibilities along with related responsibilities from earlier legislation include:

Department of Education — "The Secretary, through the National Institute on Disability and Rehabilitation Research (NIDRR) and the Administrator of the General Services, in consultation with the electronics industry, shall develop and establish guidelines for electronic equipment accessibility designed to insure that handicapped individuals may use electronic office equipment with or without special peripherals." The deadline for establishing the initial guidelines is October 1, 1987. The guidelines are to be periodically revised as technologies advance or change.

General Services Administration — The Administrator of GSA, under the Federal Property and Administrative Services Act of 1949, as amended, publishes and codifies uniform policies and procedures pertaining to information resources activities by Federal or executive agencies (as applicable) and by government contractors as directed by agencies. Under Section 508 of Public Law 99-506, The Administrator of GSA will assist the Secretary of Education in the development of the guidelines noted above. In addition, the Administrator is charged with adopting guidelines for electronic equipment accessibility after September 30, 1988.

Section 508 of P.L. 99-506 refers to "electronic equipment, whether purchased or leased," directs the ED and GSA to develop electronic accessibility guidelines, and then directs GSA to adopt the guidelines "for Federal procurement of electronic equipment." Procurements initiated after September 30, 1988, shall comply with the guidelines.

Purpose

This document has five purposes:

1. Identify the recent activities in this area;
2. Provide a broader framework for meeting the needs of individuals with disabilities now and in the future as the electronics industry advances;
3. Provide guidance to agency management in determining the needs of end users with disabilities and acquiring electronic equipment to satisfy these needs;
4. Detail the implementation plan for Public Law 99-506, Section 508, on Electronic Equipment Accessibility; and
5. Encourage industry to meet the needs of the disabled community through standard products, over the longer term.

Current Resources

In recent years, many individuals have initiated independent action to assist individuals with disabilities to capitalize on the potential of electronic office technology. The government currently has the following resources and interested parties should contact the programs directly.

In March 1984, the Administrator of GSA established the Interagency Committee for Computer Support of Handicapped Employees (ICCSHE). Twenty-three agencies are represented on the committee. They meet quarterly to exchange information on progress and problems in advancing Information Resources Management (IRM) activities to support employees with disabilities. Half of the member agencies have completed internal directives establishing general policy and procedures for providing computer support to their handicapped employees. The directives establishing this responsibility within their IRM offices were modeled after an internal order that established a similar responsibility within GSA and also created a governmentwide Clearinghouse on Computer Accommodation (COCA).

ICCSHE assists GSA by developing proposals addressing management and procurement areas where attention and guidance is suggested. Through four working groups, ICCSHE, sponsors annual governmentwide symposia, collaborates with federal laboratories to facilitate technology transfer, and participates in exchanges with counterpart organizations in other countries.

Individual agencies are implementing computer support activities and sharing their accommodation solutions with COCA, which serves as a central point of information exchange and networking among agencies. Examples of some ongoing agency activities follow.

The Department of Defense (DoD) has established Coordinators for Computer Support of Handicapped Employees in each major DoD component. The Office of the Assistant Secretary of Defense, Force Management and Personnel is responsible for this initiative.

A Computer Support Committee has been formed at the Department of Health and Human Services and special funds for purchases of accommodation technology are being set up within the services. The Social Security Administration has established a Special Terminal and Adaptive Resources (STAR) Project as part of their Systems Modernization Plan. A task force is working to provide accommodation equipment that will allow disabled employees in all field offices to use the new automated claims system.

The Information Technology Center (ITC, FTS 233-5525) of the Veterans Administration has developed a program to enable their disabled employees to use personal computers. Through interagency agreements, consultation and training are also available to employees of other Federal agencies.

The Internal Revenue Service is developing a requirements contract for accommodation-related equipment, technical staff are available to assist with accommodation needs, and strategies are being reviewed to improve access to print information by visually impaired employees.

GSA's Clearinghouse on Computer Accommodation (COCA, FTS 523-1906) was established in January 1985. This technical resource center assists agencies as they establish support services and responds to individual accommodation requests governmentwide. COCA provides demonstrations of accommodation products and strategies at their center, 18th and F Streets, N.W., Washington, D.C. In addition, COCA gives presentations at agency conferences and seminars and provides formal training in computer accommodation through the GSA Training Center. COCA also maintains a data base of accommodation solutions received from agencies. Several agencies are implementing COCA's data base program to maintain their own inventory of agency equipment and expertise. COCA is currently preparing a manager's handbook, *Managing End User Computing for Users with Disabilities*, that will be published in November 1987.

On April 27, 1987, GSA published Bulletin 48 in the Federal Information Resources Management Regulations System (FIRMR). This outlines the responsibilities of agencies to provide for the special computer accommodation needs of employees with disabilities when replacing existing computer systems. In the future, GSA plans to consider the development of a

schedule of contractors to assist agencies when they need help to integrate end users with disabilities into the information technology environment.

In summary, there is a great deal of activity which has preceded and led to these guidelines. We anticipate that these guidelines and all other activities will continue to evolve in the years ahead as technology improves and as the government gains further experience in adapting technology to the special needs of individuals with disabilities.

Guideline Proposals

These proposals address management responsibilities for electronic equipment accessibility and functional performance specifications for input, output, and documentation. Under the law, each agency must provide electronic equipment accessibility as detailed in the guideline proposals after they are adopted by GSA.

A. Definitions

1. *Electronic Equipment Accessibility* – is defined as the application/configuration of electronic equipment in a manner that accommodates the functional limitations of individuals with disabilities so as to promote productivity and provide access to work-related and/or public information resources.

2. *Federal Information Resources Management Regulations (FIRMR)* – are regulations promulgated by GSA that address the management, acquisition, and use of certain automatic data processing equipment, records and telecommunications resources by Federal and executive agencies.

3. *Handicapped Individuals or Individuals with Disabilities* – means individuals with impairment(s) that result in a functional limitation with regard to the use of electronic office equipment.

4. *Special Peripheral* – is defined in Section 508 as "a special needs aid that provides access to electronic equipment that is otherwise inaccessible to a handicapped individual."

B. General Policy

Handicapped persons and persons who are not handicapped shall have equivalent access to electronic office equipment. Provision of equivalent access shall include but shall not be limited to:

- Ensuring that end users with disabilities can access and use the same data bases and applications programs as other end users;

- Ensuring that end users with disabilities shall be supported in manipulating data and related information resources to attain equivalent end results as other end users;

- Ensuring that when electronic office equipment is part of a telecommunications system, that end users with disabilities can transmit and receive messages in a manner that supports their disability related needs and provides the capability to communicate with end users on their system.

C. Management Responsibilities

The single official for Information Resources Management, under the Paperwork Reduction Act of 1980, should assign an individual the responsibility to implement these guidelines. This individual would be responsible for keeping the agency in step with Federal policies as they evolve over time. This would include making agency IRM and procurement managers aware of their responsibilities, building accessibility requirements into procurements, and ensuring that technical support capabilities are available to introduce new equipment. The single official should ensure that appropriate progress is being made through triennial review program inspections.

To assist agencies to perform these responsibilities, GSA is developing a manager's handbook, *Managing End User Computing for Users with Disabilities*, which identifies the range of disabilities and current strategies to augment computer systems for accessibility. The greater need, however, is to encourage agencies to identify the requirements of their users with disabilities in order to achieve solutions during acquisition planning and procurement. The functional performance specifications below will help address this need.

D. Functional Performance Specifications

The functional performance specifications which follow are a combination of accessibility strategies which exist today, and additional strategies that would improve accessibility in the future. They are not an exhaustive list. The purpose of the specifications is to define an initial and basic level of accessibility, to be modified over time, to ensure that information technology, leased or purchased, is available to users with disabilities. Many of these specifications will prove useful to all end users.

Depending on the needs of the end users of each agency, all or part of these specifications will be included in agency procurement documents as requirements for demonstrable features. The government will welcome vendor creativity in responding to the functional requirements. In keeping with Federal procurement policy, each vendor will determine how to best satisfy these requirements. Vendor solutions may range from third-party hardware and software provided capabilities to hardware "built-ins" and operating system enhancements. Solutions residing in the vendors' hardware and software will have the greatest value to government. Layering, which is the inclusion of additional levels of software between the end-user and the operating system or other general purpose software, may provide the necessary functional solutions today, but in the future could adversely impact the ease of maintaining software currency at the operating system level, reduce the mobility of the employee(s) to utilize equipment at different sites within an agency, and result in additional expense. As a result, vendors proposing layered solutions should recognize the government trend in this area. Layered solutions will be evaluated on a case by case basis to determine their effect on the overall information processing needs of the agency.

In an era of increasing dependence on screen graphics and graphic images, our emerging requirement is to utilize established standard industry code from which screen information can be extracted, interpreted, and presented in speec or tactile form. This requirement recognizes the economic need to maintain the usefulness of all our trained human resources without permitting technology growth to exclude any class of users.

To accommodate future employees and provide systems support for current employees, solicitations should request pricing (perhaps on an hourly call-in availability basis throughout the life of the contract) for the services of vendor systems engineers who will be available to advise, assist, and resolve any communications or interfacing problems implicit in providing electronic office equipment access.

In the future, it is the government's expectation that emerging functiona and technical specifications may be provided in the standard product line. The specifications may also evolve, with experience to become

Federal standards. Initially, industry should consider the specifications as indicators of current and future functional requirements for information technology equipment. It is recognized that some of the specifications are complex and/or require research and development. These draft specifications may be amended after the public comment period.

The specifications below are organized by functional requirement(s) associated with input, output, and documentation. This organization reflects the major areas that need to be addressed during agency acquisition planning and procurement. Managers who are determining accommodation strategies for an individual employee with a disability should consult the GSA manager's handbook, *Managing End User Computing for Users with Disabilities* or call COCA or ITC for assistance.

1. Input

Access problems concerning the input interface to a microcomputer differ by the type and severity of the functional limitation of the employee. Some users with disabilities are capable of using the keyboard if it can be modified slightly. Users with more severe disabilities require an alternate input strategy.

a. Modified Standard Keyboard Controls

The minimum access requirement for users of a modifiable, but standard keyboard, could be achieved by providing the following capabilities:

(1) *Multiple Keystroke Control.* Currently there are numerous common functions on the computer that require multiple, simultaneous keystrokes (e.g., to reboot CTRL + ALT + DEL must all be depressed at the same time). Multiple keystroke control would enable the user to execute a sequential option in which multiple keystrokes could be entered serially(e.g.to reboot a user could depress CTRL, then ALT, then DEL).

(2) *Keyboard Repeat Rate.* Currently the computer generates repetitions of a character if the key is held down. This is a problem for those users without sufficent motor control of their fingers to conform to the repeat tolerances of the keyboard. This feature would give the user control over the repeat rate. The user could extend the keyboard tolerances or turn off the repeat function completely.

(3) *Input Redundancy.* Currently numerous programs use a mouse as one of the input options. As the use of graphics increases so will dependence on the mouse as an input device. Some users with disabilities cannot use a mouse. This feature would provide an emulation of the mouse using the keyboard and/or other suitable alternative input devices, e.g., joy stick, trackball, voice input, and touchpad. In effect, any movement control executed through the mouse could also be executed from alternative devices.

(4) *Toggle Keystroke Control.* Currently toggle keys are employed which require visual feedback to know if a key is on or off. This feature would provide an alternative mode that does not require visual feedback to know the status of any toggle key.

b. Alternative Input Device

The capability to connect an alternative input device would be available to the user who is not ab to use a modified, but standard keyboard. This feature would supplement the keyboard and any other standard input system used. The alternative input capability would consist of a physical port (serial, parallel, game, etc.) or connection capability so that an accommodation aid could augmer the keyboard or replace it. The computer would regard this device as its keyboard and the user woul be able to input any valid keystrok combination (e.g., CTRL + ALT + DEL) available from the regular keyboard. This alternative input capability would also support the mouse emulation described above.

c. Keyboard Orientation Aids

There are several different keyboards available for current personal computers. To orient a visually impaired user to a particul keyboard, a set of tactile overlays should be available to identify the most important keys (e.g., ESC, ENTER, CTRL, ALT, and several key letters and numbers). The tactil overlays might be keycap

replacements or transparent sticky tape with unique symbols to identify the various keys. To assist a motor disabled user, a keyguard should be available to ensure that the correct keys are located and depressed. A keyguard is a keyboard template with holes corresponding to the locations of the keys.

2. Output

Output in this section will address auditory output capability and monitor display.

a. Auditory Output Capability

The auditory output capability on current personal computers is sufficient to beep and play music. Some users with disabilities, however, may require speech capability. For speech to be generated on today's computers, a speech synthesizer is required. The capability to support a speech synthesizer must continue to be available in future generations of computers or this capability must be internalized through an upgrade of the computer's internal speaker. Regardless of the methodology chosen, the volume should be adjustable by the user and a headset jack should be available.

b. Information Redundancy

Currently, several programs use the speaker to beep warnings or errors to the user. Some programs do not have the capability to present the warning visually to the hearing impaired user. This feature would allow the user to have information redundancy by presenting a visual equivalent of the beep on the monitor. This might be accomplished by either a manual screen indicator (i.e.,the user would have to indicate that he has seen the warning indicator by entering a key sequence to remove the indicator from the screen) or an automatic screen indicator (i.e., the warning would be presented for a period of time and then removed automatically).

c. Monitor Display

The requirement to enhance text size, verbally reproduce text, or modify display characteristics is crucial for some users with disabilities. To ensure that this access continues the following capabilities are required:

(1) *Large Print Display.*
This feature increases the size of a portion of the screen for the low vision user. The process might use a window or similar mechanism that allows magnification to be controlled by the user. The user could invoke the large print display capability from the keyboard or control pad for use in conjunction with any work-related applications software. If applications software includes graphics, then enlargement of graphics should also be available.

(2) *Access to Screen Memory for Text.*
The capability to access screen memory is necessary to support the speech and/or tactile braille output requirement of many blind users. Currently, blind users are able to select and review the spoken or braille equivalent of text from any portion of the screen while using standard application software. The access to the contents of the screen must continue to provide third party vendors the ability to direct it to an internal speech chip, a speech synthesizer on a serial or parallel port, or a braille display device.

(3) *Access to Screen Memory for Graphics.*
Information that is presented graphically also needs to be accessed from screen memory in such a manner that as software sophistication improves, it may eventually be interpreted into spoken output.

(4) *Cursor Presentation.*
Where cursors or other indicators on the screen blink, the end user should be able to adjust the blink rate. This feature accommodates persons with seizure disorders who may be sensitive to certain frequencies of flashing light.

(5) *Color Presentation.*
Where colors must be distinguished in order to understand information on the display, color-blind end users should be able to select the colors displayed.

3. Documentation

The vendor will maintain a copy of all current user documentation on a computer, and will be responsive in supplying copies of this documentation in an ASCII format suitable for computer-based auditory review or brailling.

To develop and implement these guidelines several actions have been and are planned by GSA and NIDRR.

1. A consultant was employed to develop broad strategic concepts.

2. In May 1987, 23 companies were requested to provide input to assist in the development of the guidelines.

3. On June 29, 1987, a second letter and the first draft of the guidelines were sent to the same companies that received the initial letter. Comments were requested.

4. A two day conference was held on July 15-16, 1987, to discuss the concepts. Representatives from government, industry, and the disabled community participated in the conference.

5. GSA and NIDRR worked together to prepare this guidelines document.

6. An advisory committee was convened on August 25, 1987, to help improve this document. ICCSHE also serves in an ongoing advisory capacity.

7. On September 30, 1987, this document will be released to provide early guidance to agencies.

8. Beginning in October 1987, agencies will be invited to work with GSA and NIDRR to implement the guidelines on a pilot basis.

9. In mid 1988, GSA will release a version of the guidelines for comment by agencies, vendors, and individuals with disabilities.

10. In the remainder of fiscal year 1988, GSA will reconcile comments, and seek a consensus on the form of the FIRMR regulation and bulletin.

11. On September 30, 1988, GSA will publish the FIRMR regulation and bulletin.

12. GSA and NIDRR will work together over the years to complete the actions identified in the "Current Resources" section of this document.

13. GSA and NIDRR will work together after 1988, to update the FIRMR regulation and bulletin as the technology improves and as government and industry learn more about providing computer accessibility to employees with disabilities. ICCSHE will continue to serve in an ongoing advisory capacity.

14. A forum will be scheduled for December 1, 1989, with federal managers, vendors, and disabled employees to review the first year's experiences.

15. The advisory committee will be reconvened on April 1, 1990, to assess the September 30, 1988, issuances relative to current technology.

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Appendix A

PUBLIC LAW 99-506—OCTOBER 21, 1986
100 STAT. 1807
99th Congress

An Act
To extend and improve the Rehabilitation Act of 1973.

Section 603. ELECTRONIC EQUIPMENT ACCESSIBILITY.

(a) ELECTRONIC EQUIPMENT ACCESSIBILITY.—Title V of the Act is amended by inserting after section 507 the following new section:

"ELECTRONIC EQUIPMENT ACCESSIBILITY

"Section 508. (a)(1) The Secretary, through the National Institute on Disability and Rehabilitation Research and the Administrator of the General Services, in consultation with the electronics industry, shall develop and establish guidelines for electronic equipment accessibility designed to insure that handicapped individuals may use electronic office equipment with or without special peripherals.

"(2) The guidelines established pursuant to paragraph (1) shall be applicable with respect to electronic equipment, whether purchased or leased.

"(3) The initial guidelines shall be established not later than October 1, 1987, and shall be periodically revised as technologies advance or change.

"(b) Beginning after September 30, 1988, the Administrator of General Services shall adopt guidelines for electronic equipment accessibility established under subsection (a) for Federal procurement of electronic equipment. Each agency shall comply with the guidelines adopted under this subsection.

"(c) For the purpose of this section, the term 'special peripherals' means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to a handicapped individual."

"(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting after item "Sec. 507." the following new item:

"Sec. 508. Electronic equipment accessibility."

State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 183
AMENDING AND REISSUING THE PROVISIONS OF
EXECUTIVE ORDER NUMBER 175

Hurricane Andrew relief efforts necessitate another temporary period of exemption from weight restrictions on vehicles transporting supplies and equipment through North Carolina from the areas of disaster caused by Hurricane Andrew.

Pursuant to the authority vested in me as Governor of North Carolina under the constitution and laws of this State, IT IS ORDERED:

Executive Order Number 175 dated August 28, 1992 is reissued with the following amendments:

Section 1.

(4) Upon entering North Carolina, the vehicles will stop at the first available vehicle weight station and produce identification sufficient to establish that its load was used for the Hurricane Andrew relief effort. All other safety restrictions apply. If returning vehicles are

loaded with some other backhaul, all normal weight and permit restrictions apply.

Section 2.

The $50.00 fee listed in N.C.G.S. 105 - 449.49 for a temporary trip permit is waived for the vehicles described above. The penalties described in N.C.G.S. 20 - 382 concerning insurance registration are waived also. Finally, no quarterly fuel tax is required because the exception in N.C.G.S. 105 - 449.45 (a)(1) applies.

Section 3 is deleted.

This Order is effective December 16, 1992 and shall remain in effect until December 23, 1992.

Done in Raleigh, North Carolina, this 7th day of December, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 184
TRANSFERRING THE COMMUTATION/PARDON ANALYST POSITION ASSIGNED TO THE OFFICE OF THE GOVERNOR FROM THE OFFICE OF THE PAROLE COMMISSION IN THE DEPARTMENT OF CORRECTION TO THE OFFICE OF THE GOVERNOR

IT BEING FOUND that the duties of the Commutation/ Pardon Analyst assigned to the Office of the Governor by the Parole Commission can be more economically, efficiently and effectively performed by that position being removed from the Office of the Parole Commission in the Department of Correction and transferred to and relocated in the Office of the Governor where it can be subject to and under the direct supervision of the Governor's Legal Counsel;

THEREFORE, pursuant to the authority and powers given to me by Article III, Section 5(10) of the Constitution and North Carolina General Statute 143A-8 and 143B-12, IT IS ORDERED:

Section 1. The Commutation/Pardon Analyst position located in the Office of the Parole Commission in the Department of Correction and assigned to the Office of the Governor, is hereby removed from that office and

transferred to and relocated in the Office of the Governor, subject to and under the direct supervision of the Governor's Legal Counsel.

Section 2. The Parole Commission, Department of Correction, Office of State Personnel and the Office of State Budget and Management shall do all such things as are required to effect this transfer and relocation.

Section 3. Reports of this transfer and relocation shall be made as required by N.C.G.S. 143B-12(b). My Chief of Staff is directed to do the same.

Section 4. This Order shall be effective as of October 1, 1992.

Done in the Capitol City of Raleigh, North Carolina, this the 22nd day of December, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina

JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 185
EXTENSION OF EXECUTIVE ORDERS 12, 13, 15, 27, 29, 39, 43, 53, 55, 66, 71, 78, 99, 110, 121, 126, 132, 136, 139, 143, 150, 151, 152, 153, and 156.
AND
RESCISSION OF EXECUTIVE ORDERS 20, 22, 26, 35, 86, 89, 95, 114, 122, 124, 134, 137, 140, and 145.

Pursuant to the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. EXTENSION OF EXECUTIVE ORDERS

The Governor's Highway Safety Commission, established by E.O. 12, extended by E.O. 51, reissued by 93, and extended by 161, is hereby extended without amendment for two years.

The North Carolina State Health Coordinating Council, established by E.O. 13, amended by E.O. 51 and 93, and extended by 161, is hereby extended without amendment for two years.

The Juvenile Justice Planning Committee, established by E.O. 15, amended by E.O. 59, 94, and 131, is hereby extended without amendment for two years.

The North Carolina Fund for Children and Families Commission, established by E.O. 27, amended by E.O. 47 and 93, and extended by 161, is hereby extended without amendment for two years.

The Governor's Task Force on Racial, Religious, and Ethnic Violence and Intimidation, established by E.O. 29, amended by E.O. 44, 93, and 161, is hereby extended without amendment for two years.

The Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan, established by E.O. 39, reissued by E.O. 93, and extended by 161, is hereby extended without amendment for two years.

The North Carolina Emergency Response Commission, established by E.O. 43, amended by E.O. 48 and 50, reissued by 93, and amended by 165, is hereby extended without amendment for two years.

The Governor's Inter-Agency Advisory Team on Alcohol and Other Drug Abuse, established by E.O. 53, amended by E.O. 72, 85, 144, and 154, is hereby extended without amendment for two years.

The Martin Luther King, Jr. Holiday Commission, established by E.O. 55, extended by E.O. 101 and 161, is hereby extended without amendment for two years.

The State Employee's Combined Campaign, established by E.O. 66, extended by E.O. 106 and 173, is hereby extended until rescinded.

The Governor's Task Force on Rail Passenger Service, established by E.O. 71, extended by E.O. 94, and amended by 125,

is hereby extended, retroactive to December 30, 1991, without amendment for three years.

The Governor's Task Force on Injury Prevention, established by E.O. 78, amended and extended by E.O. 116, is hereby extended, retroactive to November 1, 1992, for two years with the following amendment: Section 3 Functions

. . . .

B. The Task Force shall advise the Injury Control Section of the Department of Environment, Health, and Natural Resources; as well as the Injury Prevention Research Center.

The Governor's Commission on Reduction of Infant Mortality, established by E.O. 99, is hereby extended, retroactive to December 13, 1991, without amendment for three years.

The Governor's Advisory Council on International Trade, established by E.O. 110, extended by E.O. 161, is hereby extended without amendment for two years.

The Governor's Minority, Female, and Disabled-Owned Businesses Construction Contractors Advisory Committee, established by E.O. 121, amended by 129, is hereby extended, retroactive to July 11, 1992, without amendment for two years.

The Governor's Highway Beautification Council, established by E.O. 126, amended by 133, is hereby extended, retroactive to September 18, 1992, without amendment for two years.

The Governor's Council on Alcohol and Other Drug Abuse, established by E.O. 132, is hereby extended without amendment for two years.

The North Carolina Advisory Council on Telecommunications in Education, established by E.O. 136, is hereby extended without amendment for two years.

The Governor's Volunteer Advisory Council, established by E.O. 139, is hereby extended without amendment for two years.

The North Carolina Advisory Council on Vocational and Applied Technology Education, established by E.O. 143, is hereby extended without amendment for two years.

The North Carolina Human Service Transportation Council, established by E.O. 150, is hereby extended without amendment for two years.

The Governor's Advisory Commission on Military Affairs, established by E.O. 151, amended by E.O. 163 and 170, is hereby extended without amendment for two years.

The Persian Gulf War Memorial Commission, established by E.O. 152, amended by 160 and 167, is hereby extended without amendment for a period of two years.

The North Carolina 2000 Steering Committee, established by E.O. 153, is hereby extended without amendment for a period of two years.

The North Carolina Committee on Literacy and Basic Skills, established by E.O. 156, is hereby extended without amendment for two years.

Section 2. RESCISSION OF EXECUTIVE ORDERS

E.O. 20, which implemented a wellness improvement program for state employees, is hereby rescinded.

E.O. 22, which implemented certain economies in North Carolina state government to respond to United States legislation requiring a federal balanced budget, is hereby rescinded.

Operation Hay, implemented by E.O. 26, is hereby rescinded.

E.O. 35, which transferred the State Information Processing Services from the Department of Administration to the Office of the State Controller, is hereby rescinded.

E.O. 86, which outlined the State's program for reduction of (1) solid, hazardous, and infectious waste and (2) toxic air pollutants, is hereby rescinded.

E.O. 89, which transferred the State Employee's Advisory Group from the Department of Administration to the Office of State Personnel, is hereby rescinded.

The Governor's Blue Ribbon Commission on Coastal Initiatives, established by E.O. 95, is hereby rescinded.

E.O. 114, which required certain adjustments in the 1989-91 budget to balance the budget, and its amendments in E.O. 130 and 164, are hereby rescinded.

The Governor's Council of Fiscal Advisors, established in E.O. 122, is hereby rescinded.

The Governor's Task Force on Prison Construction and Consolidation, established in E.O. 124, is hereby rescinded.

E.O. 134, which granted readjustment leave to state employees who had served in the Persian Gulf War, is hereby rescinded.

E.O. 137, which implemented an escrow account for contributions to the Teachers' and State Employees' Retirement System, and its amendments in E.O. 138 and 158, are hereby rescinded.

The Special Commission to Investigate Shortages in the Northampton County Schools' Finances, established in E.O. 140, is hereby rescinded.

E.O. 145, which transferred the Community Penalties Program from the Department of Crime Control and Public Safety to the Department of Correction, and its suspension in E.O. 146, are hereby rescinded.

This Executive Order is effective immediately.

Done in Raleigh this 29th day of December, 1992.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 186
NORTH CAROLINA -- HEAD START COLLABORATION PROJECT
ADVISORY COUNCIL

WHEREAS, the State's impoverished children will be more effectively assisted if local, state, and national service resources and responsibilities are shared; and

WHEREAS, this pooling of resources and responsibilities can be better achieved if the various service providers for impoverished children have a forum for communicating ideas and coordinating collaborative projects;

NOW, THEREFORE, by the authority vested in me as Governor by the constitutions and laws of North Carolina and the United States, IT IS ORDERED:

Section 1. ESTABLISHMENT

The North Carolina -- Head Start Collaboration Project Advisory Council is hereby established.

Section 2. MEMBERSHIP

The following individuals or their designees shall serve as members of the Council:

The Senior Education Advisor in the Offices of the Governor;
The President of the System of Community Colleges;
The Secretary of Environment, Health, and Natural Resources;
The Superintendent of Public Instruction;
The Secretary of Commerce;
The Director of the Division of Economic Opportunity in the Department of Human Resources;
The Director of the Division of Facility Services in the Department of Human Resources;
The Director of the Division of Medical Assistance in the Department of Human Resources;
The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services in the Department of Human Resources;
The Director of the Division of Social Services in the Department of Human Resources;
The Director of the Office of Rural Health and Development Services in the Department of Human Resources; and
The President of the North Carolina Head Start Association.

In addition, at least nine other members shall be named by the Governor from the North Carolina Association of County Commissioners, the North Carolina Primary Health Care Association, private businesses, and non-profit human service providers.

Section 3. CHAIR

The Governor shall designate the chair of the Council, who shall serve at his pleasure.

Section 4. MEETINGS

The Council shall meet at least quarterly at the call of the chair.

Section 5. PURPOSE

The purpose of this Council is to build cooperation between Head Start and other programs for impoverished children to ensure such children the fullest possible access to such programs within North Carolina. It creates a forum for state agencies, Head Start representatives, private businesses, and other appropriate organizations to develop an understanding among themselves of the

role, importance of, and opportunities for collaboration among the various existing service programs for impoverished children.

Section 6. DUTIES

Together with the Special Assistant for Head Start within the Department of Human Resources, the Council shall:

1. Identify possible projects for collaboration between state and Head Start agencies;

2. Plan and oversee such collaborative ventures; and

3. Serve as an information resource concerning the goals and objectives of such inter-agency collaborative projects. The office of the Special Assistant for Head Start shall serve as the central collection and dissemination point for this information.

Section 7. ADMINISTRATION

Administrative support for the Council and its subcommittees shall be provided by the Special Assistant for Head Start in the Department of Human Resources ("DHR"). The U.S. Department of Health and Human Services has provided $100,000 for the Council under grant number 90-CD-0997, "Head Start in North Carolina: Building a Better Partnership." This amount includes reimbursement for necessary subsistence and travel expenses.

Section 8. EFFECTIVE DATE

This Order shall be effective immediately.

Done in Raleigh, North Carolina this the 6th day of January, 1993.

James G. Martin
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 1
NORTH CAROLINA BOARD OF ETHICS

WHEREAS, public office in North Carolina must be regarded as public trust; and

WHEREAS, the people of North Carolina have a fundamental right to the assurance that officers of their government will not use their public position for personal gain; and

WHEREAS, this Administration is committed to restore and maintain the confidence of North Carolina citizens in their government; and

WHEREAS, there is a need in North Carolina for the creation of an institutionalized procedure designed to prevent the occurrence of conflicts of interest in government and to deal with them when they do occur; and

WHEREAS, this Administration acknowledges that the vast majority of state government employees are honest and hard working in their public and private lives;

NOW, THEREFORE, it is hereby ordered:

Section 1. Rescission of Former Executive Order.

Executive Order Number 1, dated January 31, 1985, and all subsequent amendments thereto are hereby rescinded. All records,

including Statements of Economic Interest, of the North Carolina Board of Ethics created pursuant to said Executive Order, are transferred to the North Carolina Board of Ethics herein.

Section 2. North Carolina Board of Ethics.

There is hereby established the North Carolina Board of Ethics ("Board") consisting of seven persons to be appointed by the Governor to serve at his pleasure. The Governor shall, from time to time, designate one of the members as Chair. The members shall receive no compensation, but shall receive reimbursement for any necessary expenses incurred in connection with the performance of their duties pursuant to North Carolina law. The Board shall not be considered a public office for the purpose of the prohibition against dual office holding.

Section 3. Persons Subject to Order.

The following persons are subject to this order and to the jurisdiction of the Board:

(a) All employees in the Office of the Governor.

(b) The heads of all principal State agencies who are appointed by the Governor.

(c) The chief deputy or chief administrative assistant to each of the aforesaid heads of principal state agencies.

(d) All "confidential" assistants or secretaries to the aforesaid agency heads (or to the aforesaid chief deputies and assistants of agency heads) as defined in G.S. 126-5(c)(2).

(e) All employees in policy-making positions as designated by the Governor pursuant to the State Personnel Act as defined in G.S. 126-5(b), and all "confidential" secretaries to these individuals.

(f) Any other employees in the principal state agencies, except in those agencies headed by an elected official other than the Governor, as may be designated by rule of the Board

subject to the approval of the Governor, to the extent such designation does not conflict with the State Personnel Act.

(g) The members of all commissions, boards, and councils appointed by the Governor, with the exception of members of those commissions, boards, and councils which the Board determines perform solely advisory functions.

(h) The elected heads of other principal state agencies, and the employees of those agencies designated by the head, should such agency head decide to participate in the system created by this Order (see Section 8).

(i) Members of the Board.

Section 4. Exemption from Order.

Notwithstanding Section 3 herein, a commission, board, or council to which the Governor appoints members, may make a written request for the Board to exempt its members from this Order. The Board shall grant such requests if it finds that such exemption does not violate the intent of this order and in no way interferes or conflicts with the proper and effective discharge of the official duties of the members of the commission, board, or council making the request. The determination of the Board in every such case shall be final.

Section 5. Specific Prohibitions

Any exception to the following prohibitions may only be granted by the Board upon written application, if it finds that such activity does not violate the intent of this Order and in no way interferes or conflicts with the proper and effective discharge of the official duties of the person making the request. The Board shall indicate the specific circumstances under which the exception is made and the manner in which the exception is to be carried out. The determination of the Board in every such case shall be final.

(a) No person subject to this Order shall engage

activity which interferes or is in conflict with the proper and effective discharge of such person's official duties.

(b) No person who is employed by the state in a full-time position and who is subject to this Order, shall hold any other public office or public employment for which compensation, direct or indirect, is received.

(c) No person subject to this Order shall solicit in their official capacity any gratuity or other benefit for themselves from any other person under any circumstances.

Section 6. Statement of Economic Interest.

(a) Within thirty days from commencement of state service or the effective date of this Order, whichever is later, and thereafter between April 15 and May 15 of each succeeding year, each of the following persons subject to this Order shall file with the Board a sworn Statement of Economic Interest ("Statement"):

(1) Each person appointed by the Governor and subject to this Order.

(2) Each person subject to this Order, whether or not appointed by the Governor, who received $30,000.00 or more from the state.

(3) Each person subject to this Order, irrespective of the amount of compensation received, whose position is subject to undue influence (as determined from time to time by the Board).

(4) Each person designated by the elected head of a principal state agency pursuant to Section 8 of

this order.

(5) Members of the Board.

(b) The Statement shall contain:

(1) The name, home address, occupation, employer and business address of the person filing.

(2) A list of all assets and liabilities of the person filing which exceed a valuation of $5,000. With respect to each asset and liability listed, the specific valuation need not be set forth, but there shall be an indication as to whether the valuation of each asset or liability exceeds $10,000. This list shall contain, but shall not be limited to, the following:

(A) All North Carolina real estate, with specific description adequate to determine the location of each parcel;

(B) The name of each publicly-owned company (i.e., companies which are required to register with the Securities and Exchange Commission) in which securities owned in each company listed exceeds $10,000.

(C) The name of each non-publicly-owned company or business entity in which securities or other

equity interest are owned, and an indication as to whether the valuation of the securities or equity interest owned in each such company or business entity listed exceeds $10,000.

(D) With respect to the aforesaid non-publicly-owned company or business entities in which the interest of the person filing exceeds a valuation of $10,000, if any such companies or business entities own securities or equity interests in other companies or business entities, the name of each such other company or business entity should be listed if the securities or other equity interests in them held by the aforesaid non-publicly-owned company exceed a valuation of $10,000.

(E) If the person filing or his or her spouse or dependent children are the beneficiary of a

trust created, established, or controlled by the person filing, which holds assets, and if those assets are known, the name of each company or other business entity in which securities or other equity interests are held by the trust should be listed, with an indication as to whether the valuation of the securities or equity interest held in each such company or business entity listed exceeds $10,000, and with the name and address of the trustee and a description of the trust. If any of the aforesaid assets are securities or other equity interests in a corporation or other business entity, each such corporation or business entity should be listed separately by name.

(F) A list of all other assets and liabilities exceeding a value of $5,000, including bank

accounts and debts, with an indication as to whether each asset or liability exceeds a valuation of $10,000.

(3) A list of all sources (not specific amounts) of income (including capital gains) shown on the most recent federal and state income tax returns of the person filing where $5,000 or more was received from such source.

(4) If the person filing is a practicing attorney, an indication of whether that person, and/or his or her law firm has, during any single year of the past five years, earned legal fees in excess of five thousand dollars ($5,000) from any of the following categories of legal representation:

(A) Criminal Law

(B) Utilities regulation or representation of regulated utilities

(C) Corporation Law

(D) Taxation

(E) Decedent's estates

(F) Labor Law

(G) Insurance Law

(H) Administrative Law

(I) Real property

(J) Admiralty

(K) Negligence (representing plaintiffs)

(L) Negligence (representing defendants)

(5) A list of all businesses with which, during the past five years, the person filing has been associated, indicating the time period of such association and the relationship with each business as an officer, employee, director, partner, or a material owner of a security or other equity interest and indicating whether or not each does business with or is regulated by the state and the nature of the business, if any, done with state.

(6) In all Statements after the first one filed by an individual, a list of all gifts of a value of more than $100 received during the twelve months preceding the date of the Statement from sources other than relatives of the person filing and his or her spouse, and a list of all gifts, of value of more than $50 received from any source having business with or regulated by the state.

(7) Other information as may be deemed necessary to effectuate the purpose of this Order, as provided for by rule of the Board.

(8) A declaration concerning any other information or relationship which the person filing believes may relate to any actual or potential conflict of interest he or she may

have as an employee of state government.

(9) A sworn certification by the person filing that he or she has read the Statement and that, to the best of his or her knowledge and belief, it is true, correct, complete and that he or she has not transferred and will not transfer any asset, interest, or other property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

(c) The person filing a Statement shall list as specified in Section 6(b) the assets, liabilities, and sources of income of his or her spouse which are derived from the assets or income of the person filing, controlled by the person filing, or for which the person filing is jointly or severally liable.

(d) The Board shall issue a form for such Statements no later than February 1, 1993.

(e) After review and evaluation by the Board, the Statements will be made available by the Board for public inspection. The Statements by the Board members shall be filed with the Governor and shall be made public also.

Section 7. Duties of the Board.

(a) The Board shall review all Statements submitted to it to determine their conformity with the terms of this Order and the Board's rules, and to evaluate the financial interest of the person filing to determine whether there appears to be actual or potential conflicts of interest. The Board shall

submit a written report of each such evaluation to the official responsible for making the appointment of the person filing, and to the Governor, unless the person is filing a Statement pursuant to Section 8 of this Order, in which case a copy of the written report shall be sent to the elected head of that agency. The Board may recommend remedial action with respect to any problem which is apparent from any Statement.

(b) Any person required to file a Statement or his or her spouse may make a written request to the Board to delete an item from the Statement before it is placed for public inspection. The Board may grant the request if it finds that the item:

(1) is of a confidential nature;

(2) does not in any way relate to the duties of the position held or to be held by such person; and

(3) does not create an actual or potential conflict of interest.

The decision of the Board in these matters shall be final.

(c) The Board shall provide by rule for the time, place, and manner of convenient public inspection of the Statements; exemptions it grants under Sections 4 or 5;

(d) The Board shall promulgate readily understandable rules, forms, and procedures to carry out the purposes of this Order and shall publish them.

(e) The Board shall render opinions and determinations on matters pertaining to the interpretation and application of this Order.

(f) The Board shall provide reasonable assistance to all persons subject to this Order in complying with the terms of this Order.

(g) The Board shall receive information from the public concerning potential conflicts of interest and make necessary investigations. The Board shall promulgate rules to protect all employees from specious and unfounded claims and damage to their reputations which could result from such claims. The Board shall promulgate rules to protect employees from any direct or indirect reprisals from any source resulting from efforts to inform the Board of the existence of potential or actual conflicts of interest in state government. The Board shall promulgate rules providing for full and fair consideration of the merits of all complaints received, which rules shall assure that the rights of all parties involved in the investigation are protected. All complaints and allegations concerning actual or potential conflicts of interest to be considered by the Board must contain the name, address, telephone number, and oath of the individual filing such complaint or making such allegation. The Board shall prepare a report of each such investigation and forward a copy to the official responsible for making the appointment of the person investigated, and to the Governor, unless the person investigated has filed a Statement pursuant to Section 8 of this Order, in which case a copy of the written report shall be sent to the elected head of that agency. The Board

may recommend remedial action with respect to any problem revealed by such an investigation.

(h) The Board shall request, when necessary to accomplish the purpose of this Order, additional information from persons covered by this Order.

(i) The Board shall meet regularly, at the call of the Chair, to carry out its duties.

(j) The Board shall submit a report annually to the Governor on its activities and generally on the subject of public disclosure, ethics, and conflicts of interest, including recommendations for administrative and legislative action.

(k) The Board shall perform such other duties as may be necessary to accomplish the purposes of this Order.

Section 8. Other Principal State Agencies.

The elected heads of other principal state agencies (e.g., Office of the Lieutenant Governor and Departments of State, State Auditor, State Treasurer, Public Education, Justice, Agriculture, Labor, and Insurance) and the University of North Carolina Board of Governors may, and hereby are invited to, join in the effort represented by this Order by providing the Chair of the Board with a written notice of their decision to have the terms of this Order apply to those employees under their jurisdiction (who are not covered by the State Personnel Act) and a list of the employees under their jurisdiction who will be asked to submit a Statement. All services of the Board available to the Governor under this Order shall be available to each of the heads of the aforesaid agencies so deciding, and all of the services of the Board available to employees under this order shall be available to employees brought within the coverage of this Order in this manner.

Section 9. Sanctions.

The failure of any employee to make timely filing of a required document, the intentional making of a false or misleading declaration or an intentional omission in a document, the failure to cooperate with the Board, and the failure to comply with the terms of this Order, shall be grounds for disciplinary action, including discharge.

Section 10. Board Offices.

The Board and its staff, for administrative purposes only, shall be located in the Department of Administration.

Done in Raleigh, North Carolina, this the 9th day of January in the year of our Lord, one thousand nine hundred ninety-three.

James B. Hunt, Jr.
Governor

ATTEST

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 2

SMALL BUSINESS COUNCIL

WHEREAS, the growth and development of successful small businesses is essential to the economic well-being of our State and Nation; and

WHEREAS, North Carolina State Government agencies administer numerous programs which directly affect small businesses, and

WHEREAS, several state-funded North Carolina private, non-profit organizations administer programs which support the creation and growth of small businesses, and

WHEREAS, there is no uniform, comprehensive structure which allows small business assistance programs to participate in the State's decision-making process with regard to small business development, and

WHEREAS, coordination and collaboration among small business assistance programs is essential to an

efficient and effective small business support infrastructure, and

WHEREAS, this administration is committed to creating an environment which fosters a world-class small business sector;

NOW, THEREFORE, by the authority vested in me as Governor by the constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Establishment.

The North Carolina Small Business Council is established hereby. The Council shall be composed of the Lieutenant Governor and sixteen additional members appointed by the Governor. The appointed members shall serve staggered three-year terms to begin thus: five of the members shall be appointed to one-year terms, five shall be appointed to two-year terms, and six shall be appointed to three-year terms. Thereafter, all appointments shall be for three-year terms. The Lieutenant Governor shall serve as Chair. The Secretary of State, Secretary of Commerce, Secretary of Revenue, Commissioner of Labor, President of the University of North Carolina System, and President of the System of Community Colleges or their designees shall serve as non-voting, ex-officio members.

Section 2. Meetings.

The Council shall meet at least once each quarter and may hold special meetings at any time at the call of the Chair or the Governor.

Section 3. Expenses.

Council members shall receive necessary per diem, and travel and subsistence expenses, in accordance with North Carolina law. Funds for these expenses shall come from the Department of Commerce budget.

Section 4. Purposes.

The purposes of the Small Business Council are:

(A) To recommend to the Governor, General Assembly, and Economic Development Board legislation, programs, and other actions required to nurture small business growth and development.

(B) To recommend to the Governor, General Assembly, and Economic Development Board changes in statutes and regulations, including the State tax structure, which affect small businesses in North Carolina.

(C) To foster coordination and collaboration among state agencies, and private, non-profit organizations involved in small business development.

(D) To identify, together with State agencies, the need for small business programs in education, training, marketing, funding resources, exports, purchasing and contracts, technology and related areas.

(E) In collaboration with officials in the Departments of Commerce and Transportation assigned primary responsibility for women and minority business issues, to recommend to the Governor and General Assembly a coordinated response by state agencies to increase the number of women-owned and minority-owned business starts in North Carolina.

(F) To plan and conduct annual forums on small business development.

(G) To assist in the creation of a clearinghouse within state government, responsible for providing a coordinated response to requests for small business assistance.

(H) To conduct public hearings and interviews and solicit non-confidential information to effect its other duties.

Section 5. Administration.

The Lieutenant Governor's office and the Department of Commerce shall provide staff and administrative support services for the Council.

Section 6. Cooperation.

It shall be the responsibility of each Cabinet Department Secretary to make every reasonable effort for his or her department to cooperate with the North Carolina Small Business Council to carry out the provisions of this Order.

This Order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this 11th day of February, 1993.

James B. Hunt, Jr., Governor

ATTEST:

Rufus L. Edmisten, Secretary of State



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 3
TRANSFERRING THE "KEEP AMERICA BEAUTIFUL" PROGRAM
FROM THE OFFICE OF THE GOVERNOR
TO THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

IT BEING FOUND that the "Keep America Beautiful" Program can be more economically, efficiently, and effectively performed by that program being removed from the Office of the Governor and transferred to and relocated in the Department of Environment, Health, and Natural Resources ("DEHNR");

THEREFORE, pursuant to the authority and powers given to me as Governor by Article III, Section 5(10) of the Constitution and North Carolina General Statute 143A-8 and 143B-12, IT IS ORDERED:

Section 1. The State Coordinator position for the "Keep America Beautiful" Program located in the Office of the Governor (position number 30002-0000-0000-311), is hereby removed from that office and transferred to and relocated in DEHNR, subject to and under the direct supervision of the Office of Environmental Education. This shall be treated as a Type I transfer under N.C.G.S. 143A-6(a).

Section 2. The Governor's Office of Citizens Affairs, DEHNR, Office of State Personnel, and the Office of State Budget and Management shall do any action required to effect this transfer and relocation.

Section 3. Reports of this transfer and relocation shall be made as required by N.C.G.S. 143B-12(b). My Associate General Counsel is directed to do the same.

Section 4. This Order shall be effective immediately.

Done in the Capitol City of Raleigh, North Carolina, this the 23rd day of February, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 4
COMMISSION ON WORKFORCE PREPAREDNESS
AND ITS
INTER-AGENCY COORDINATING COUNCIL

WHEREAS, the United States Congress has granted each State, in accordance with the Job Training Partnership Act Amendments of 1992 (Title VII), the option to establish a single State human resource investment council; and

WHEREAS, the Governor and heads of State agencies responsible for the administration of Federal human resource programs jointly agree to include these programs under the jurisdiction of a single State human resource investment council; and

WHEREAS, the Governor and the North Carolina Advisory Council on Vocational and Applied Technology Education jointly agree to the establishment of a single State human resource investment council;

NOW THEREFORE, by the authority vested in me as Governor by the constitutions and laws of North Carolina and the United States, it is ORDERED:

Section 1. ESTABLISHMENT

A. The Commission on Workforce Preparedness ("Commission") is hereby established as the human resource investment council for North Carolina, as permitted by title VII of the federal Job Training Reform Amendments of 1992.

B. An Inter-Agency Coordinating Council ("ICC") is also hereby established.

Section 2. MEMBERSHIP

A. The Commission shall consist of up to 40 members appointed by the Governor as prescribed by title VII, section 702 of the federal Job Training Reform Amendments of 1992. Their terms shall begin on July 1, 1993 and shall be staggered in the following manner for the first three years: 15 members serving two years, and 15 members serving three years. After the first two years, each appointment shall be for a term of three years.

B. The ICC shall consist of senior-level management representatives from each state agency administering a workforce preparedness program. The members shall be appointed by the head of the agencies involved and may include a representative from a program under the federal Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

Section 3. **CHAIRPERSONS**

A. The Governor shall appoint a chairperson for the Commission, who shall serve at his pleasure.

B. In turn, the Commission Chairperson shall appoint the Chairperson of the ICC, who shall serve at her pleasure.

Section 4. **MEETINGS**

A. The Commission shall meet quarterly and at other times at the call of its Chairperson.

B. ICC shall meet as necessary to effect its purposes at the call of its Chairperson.

Section 5. **PURPOSE**

A. The sole purpose of the ICC is to provide technical advice to the Commission. It shall have no voting nor any other powers within the Commission.

B. The Commission shall have the following duties and responsibilities:

1. Advise the Governor, General Assembly, state agencies, and private businesses about policies and programs which enhance the skill and expertise of the State's workforce;

2. Coordinate the activities of the Preparedness Programs;

3. Create a comprehensive Workforce Preparedness System ("System") that is market-driven and customer-focused. The System shall include:

a. common definitions and assessment criteria so that clients can conveniently enter the System at any point;

b. a program to link Preparedness Programs' data collection systems for easier, more consistent evaluation of and reporting on clients throughout the System; and

c. evaluation methods and procedures to assess the result of the System's various Preparedness Programs.

4. Submit to the Governor and General Assembly a biennial strategic plan for Workforce Preparedness to include:

a. a statement of goals and objectives for the coming biennium;

b. an inventory and assessment of all Preparedness Programs;

c. an assessment of the vocational education, basic and remedial education, employment, and job training needs of the State's labor market;

d. an evaluation of the ability of each of the System's programs to: (i) meet State goals and objectives, (ii) reach the outcomes necessary to both employers and

individual citizens who need System services, and (iii) coordinate with other System programs;

e. recommendations for policy changes and funding for effective implementation of the System; and

f. recommendations for effecting cost savings and filling gaps in existing Workforce Preparedness policies and programs.

5. Develop and promote strategies for:

a. cooperation between the academic, governmental, and private business sectors; and

b. acquisition of private resources to develop the System.

6. Perform all other duties and responsibilities prescribed:

a. by title VII, section 701, of the federal Job Training Reform Amendments of 1992, and subsequent legislation; and

b. for existing state councils under the laws relating to federal human resource programs.

Section 6. **WORKFORCE PREPAREDNESS PROGRAMS**

A. The federal resource programs created by the following statutes are hereby designated as North Carolina's Workforce Preparedness Programs:

1. Adult Education Act (20 U.S.C. 1201 et seq.);

2. Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) ("Perkins Act");
3. Wagner-Peyser Act (29 U.S.C. 49 et seq.);
4. National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);
5. Part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);
6. Job Training Partnership Act (29 U.S.C. 1501 et seq.);
7. Employment program, section (6)(d)(4), Food Stamp Act of 1977 (7 U.S.C. 2015 (d)(4)); and
8. all other applicable federal human resource programs, with the exception of any programs under the federal Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

B. In addition, all State resource programs which involve vocational education, basic and remedial education, or job training are designated as Workforce Preparedness Programs.

Section 7. **COOPERATION OF STATE AGENCIES**

All State agencies shall cooperate with the Commission and the ICC as they implement their duties and responsibilities.

Section 8. **ADMINISTRATION AND EXPENSES**

A. With the exception of reviews by the State Auditor, the Commission shall be independent of programmatic, fiscal, or

administrative control by any other state agencies, boards, commissions, councils, or individuals.

B. The Commission is authorized to retain such professional, technical, and administrative support services as may be necessary for itself and the ICC.

C. The operating budget for the Commission and the ICC shall derive from such funds as the Preparedness Programs may designate from federal resources available for state councils, such as under section 123 (a)(2)(D) of the Job Training Reform Amendments of 1992 and section 112 (g) of the Perkins Act. Also, each State agency participating in the System may provide additional funds to support the Commission and ICC from its own budget.

D. Members of the Commission and its staff shall receive necessary travel and subsistence expenses in accordance with State law.

Section 9. RECISSION OF PRIOR ORDERS

Executive Orders Numbered 143, and 159 by Governor James G. Martin are rescinded effective June 30, 1993. Order 143 had set up the Advisory Council on Vocational and Applied Technology Education, and Order 159 had set up the current Commission on Workforce Preparedness.

This Executive Order is effective July 1, 1993 and shall remain effective until terminated. As mandated by section 703(c) of the Act, Certification of the establishment and membership of the Commission shall be sent to the U.S. Department of Labor at least 90 days before the beginning of each period of two program years for which a plan is submitted.

Done in the Capital City of Raleigh, North Carolina this 10 day of March, 1993.

James B. Hunt
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 5
SEVERE WINTER STORM EMERGENCY RELIEF

WHEREAS, on March 15, 1993, the United States Department of Transportation declared a regional emergency justifying an exemption from 49 C.F.R. 390-399 (Federal Motor Carrier Safety Regulations) for a period of thirty days in response to the severe winter storm of March 12 and 13, 1993;

NOW THEREFORE, pursuant to N.C.G.S. 166A-6(c), the North Carolina Emergency Management Act, by the authority vested in me as Governor by the Constitution and laws of this State, and with the concurrence of the Council of State, IT IS ORDERED:

Section 1. The State of North Carolina, under the supervision and direction of its Department of Transportation, shall waive weight restrictions on the gross weight of vehicles transporting food, supplies, and equipment to the victims of the severe winter storm subject to the following conditions:

(1) Vehicle weight shall not exceed the maximum gross vehicle weight criteria established by the manufacturer or 90,000 pounds gross vehicle weight, whichever is less.

(2) Tandem axle weights shall not exceed 50,000 pounds and single axle weights shall not exceed 25,000 pounds.

(3) The vehicles shall, upon entering the State of North Carolina, stop at the first available vehicle weigh station and produce identification sufficient to establish that the load contained thereon is part of the relief effort for the severe winter storm.

(4) This order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

Section 2. The vehicles described above shall be exempt from the vehicle licensing and tax requirements of N.C.G.S. 105, Subchapter 5, Article 36B (motor fuels tax).

Section 3. As a result of the 15 March 1993 declaration of regional emergency by the U.S. Department of Transportation and its corresponding exemption from 49 C.F.R. 390-399, nonparticipants in North Carolina's International Registration Plan shall be permitted to operate in North Carolina without penalty under N.C.G.S. 20-382.

Section 4. If returning vehicles are loaded with some other backhaul, all normal weight and permit restrictions apply.

Section 5. The North Carolina Department of Transportation shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner which would best accomplish the purposes of this Order without endangering motorists on North Carolina highways.

This Order is effective immediately and shall remain in effect for 30 days.

Done in the Capital City of Raleigh, North Carolina, this the 18th day of March, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 6
ENTREPRENEURIAL DEVELOPMENT BOARD

WHEREAS the State of North Carolina is committed to the development of a vibrant economy for the people of the State; and

WHEREAS business in North Carolina operates in a global economy where information expands at a geometric rate and rapid responses are necessary to remain competitive, particularly in high-technology fields; and

WHEREAS an economic environment which nurtures fledgling and developing companies would serve both these functions; and

WHEREAS there is currently no government organization dedicated exclusively to collaboration and coordination among state and non-state entities in the creation and maintenance of a dynamic entrepreneurial business environment;

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. ESTABLISHMENT

A. The Entrepreneurial Development Board ("Board") is hereby established.

B. The Entrepreneurial Development Advisory Council ("Advisory Council") is also hereby established.

Section 2. MEMBERSHIP

A. The Board shall be composed of at least 20 members appointed by the Governor to serve at his pleasure. Ideally, a majority of the Board themselves should be entrepreneurs.

B. The Secretary of Commerce, or his designee, shall serve as a non-voting, ex officio member of the Board.

C. The Advisory Council may include state and non-state entities concerned with entrepreneurial and small business.

Section 3. CHAIR

The Governor shall appoint a Chair for the Board and the Advisory Council, both of whom shall serve at his pleasure.

Section 4. MEETINGS

A. The Board shall meet at least quarterly at the call of its Chair.

B. The Advisory Council shall meet as necessary to effect its purposes at the call of either its Chair or the Board's Chair.

Section 5. DUTIES

A. The Board shall have the following duties and responsibilities:

1. Make recommendations to the Governor and the General Assembly regarding policy, programs, and

monies required to nurture entrepreneurial business growth and development throughout North Carolina, including changes in the state tax structure;

2. Work to improve collaboration among the various state, local, federal, private, and non-profit entities involved in entrepreneurial business development;
3. Examine the need for programs in the areas of export and contract assistance; training and education; funding resources; technological assistance; manufacturing assistance; and development of high-growth, startup, and fledgling entrepreneurial businesses;
4. Develop a statewide, inclusive entrepreneurial development program;
5. Study practices for entrepreneurial business development throughout the United States and the world and determine their applicability to North Carolina's economic environment;
6. Provide a report to the Governor on January 31st of each year concerning the status of entrepreneurial development in North Carolina;
7. Plan and conduct an annual Governor's Conference on Entrepreneurial Development;
8. Review existing state and local small business programs to make recommendations for redirection, enhancement, or elimination; and

9. Undertake such other activities as are necessary to effect the Board's responsibility to foster development of a vibrant entrepreneurial community in North Carolina.

B. The purpose of the Advisory Council is to provide such technical advice to the Board as it requests.

Section 6. ADMINISTRATION

1. The Department of Commerce shall provide staff and administrative support services for the Board.

2. The Board shall work closely with the NC Economic Development Board.

3. Board members shall receive reimbursement for reasonable expenses, as allowed by North Carolina law.

This Order is effective immediately.

Done in the Capitol City of Raleigh, North Carolina, this the 12th day of April, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 7
ABOLISHING THE NORTH CAROLINA DRUG CABINET

WHEREAS, the duties of the North Carolina Drug Cabinet have been transferred to existing state agencies on the front line of crime fighting, including the Department of Justice and the Governor's Crime Commission,

NOW THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Abolishment.

The North Carolina Drug Cabinet established by Executive Order Number 80 by Governor James G. Martin, and reestablished by Executive Order Number 108, amended by Martin Executive Order Number 117, is hereby abolished. Executive Orders 108 and 117 of the Martin Administration are hereby rescinded.

This executive order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 13th day of April, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NO. 8

STATE GOVERNMENT RECYCLING, REDUCTION OF SOLID WASTE, AND PURCHASE OF PRODUCTS WITH RECYCLED CONTENT

WHEREAS, 83% of the 9.5 million tons of solid waste generated annually in North Carolina is disposed of in landfills; and

WHEREAS, the State of North Carolina has taken significant measures to promote alternatives to landfilling and incineration by establishing solid waste reduction goals of 25% by 1993 and 40% by the year 2001; and

WHEREAS, source reduction and recycling are key elements in a comprehensive approach to reducing North Carolina's dependency on landfills and incineration for the disposal of solid waste; and

WHEREAS, recovered materials are not truly recycled until they are brought back into productive use in manufacturing and consumption; and

WHEREAS, the purchase of recycled products is necessary to ensure markets for recyclable materials, and state government constitutes a large consumer of products that are available with recycled material content; and

WHEREAS, the purchase of recycled products helps conserve natural resources and reduce energy consumption;

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, it is ORDERED:

Section 1. PURPOSE

That all state agencies shall maximize their efforts to: (1) reduce the amount of solid waste they generate; (2) recycle material recoverable from solid waste originating at their facilities; and (3) purchase and use products made wholly or in part from recycled materials.

Section 2. RESPONSIBILITIES OF STATE AGENCIES

(a) Applicability

For the purposes of this Executive Order, "state agencies" shall include state government departments and the University of North Carolina.

(b) Responsibilities

(1) Each state agency shall be responsible for implementing programs to reduce and recycle solid waste generated by its operations and to purchase and use products having recycled content. Such programs shall be consistent with, and at least as comprehensive as described in, this Order. Each agency shall designate one or more individuals to coordinate and oversee its recycling, waste reduction, and recycled products purchasing programs, and to serve as a liaison with the Office of Waste Reduction of the Department of Environment, Health, and Natural Resources.

(2) The Office of Waste Reduction shall provide technical assistance, education and training to state agencies on these matters, and shall serve as a central point of

information and coordination for all state agency recycling and waste reduction efforts.

(3) The Divisions of Auxiliary Services and Facility Management of the Department of Administration shall facilitate state agencies' recycling efforts as part of their regular functions, which include but are not limited to overseeing contracts for or providing waste hauling and housekeeping services, and operating the State Surplus Property Agency.

(4) As provided in this Order, the Division of Purchase and Contract of the Department of Administration shall aggressively explore opportunities for purchasing products having recycled content in place of those not having recycled content, and shall actively promote the purchase of recycled products by state agencies and others eligible to purchase items from state contracts.

Section 3. SOURCE REDUCTION OF WASTE

(a) General requirements

To encourage reduction of waste at its source, all state agencies shall review their operations to determine where solid waste can be reduced at its sources of generation. Specific measures state agencies shall employ to reduce waste at the source include but are not limited to those identified in this Section.

(b) Printing and photocopying

State agencies shall avoid unnecessary printing or photocopying of printed materials, and shall require two-sided copying on all documents when feasible and practicable. All new photocopy machines purchased shall have duplexing capabilities if their capacity is rated

at sixty thousand (60,000) copies or more per month.

(c) Durability, necessity, packaging, and recyclability

State agencies shall discourage the use of disposable products where reusable products are available and economically viable for use. Further, state agencies shall assess their waste generation with regard to purchasing decisions and make every attempt to purchase items only when needed and in amounts that are not excessive. When purchases are necessary, state agencies shall, to the extent feasible and practicable, acquire durable items or items that are readily recyclable when discarded, and items having minimal packaging.

Section 4. COLLECTION OF RECYCLABLE MATERIALS

(a) Collection programs for recyclable materials

(1) As set forth in G.S.130A-309.14, all state agencies shall ensure that employees have access to containers for recycling (at a minimum) aluminum cans, high-grade office paper, and corrugated cardboard. All state employees are required to separate identified recyclable materials generated in the course of agency operations and place them in the appropriate recycling containers. The provisions of this section shall not apply in those situations where the agency head makes a written determination that their implementation is not feasible.

(2) State agencies that routinely host the general public, such as highway rest areas, state parks and recreation areas, employment security offices, state historic sites, etc., shall implement programs for the collection and recycling of appropriate materials discarded by the public at all such locations (e.g., aluminum, glass, and

plastic beverage containers) when feasible and practicable. State agencies shall work closely with the appropriate local government agencies when developing and implementing these recycling programs.

(b) Education of agency employees

It shall be the duty of each state agency to educate its employees about agency recycling/waste reduction goals and procedures and to ensure participation. The Office of Waste Reduction shall assist agencies to develop and implement educational programs. Each agency shall establish a network of assistant coordinators to work with the agency coordinator in carrying out this responsibility. The assistant coordinators shall disseminate information about recycling and waste reduction policies and programs and monitor participation in programs and report any problems, suggestions, or other feedback to the agency's designated coordinator.

Section 5. PURCHASE AND USE OF PRODUCTS HAVING RECYCLED CONTENT

To help develop markets for recyclable materials, to support local government recycling efforts mandated by G.S. 130A-309.09B, and to set an example for local government and the private sector, all state agencies shall purchase and use products made wholly or in part with recycled materials whenever feasible and practicable.

(a) Purchasing

(1) In cooperation with the Office of Waste Reduction, the Division of Purchase and Contract shall make every effort to identify products made from recycled materials that meet appropriate standards for use by state agencies.

(2) Product specifications shall be written to encourage vendors to offer products having recycled content. When products having recycled content are offered that are comparable in quality, availability, and price to products not having recycled content, term contracts shall carry only the recycled products.

(3) Term contracts shall be written in a format that prominently identifies products having recycled content, and these products shall be listed in conjunction with any comparable products that do not have recycled content, to enable agencies to readily identify the availability of these products. The Division of Purchase and Contract shall prepare a listing of all recycled products available on state contracts on a semi-annual basis, and make it available to all potential purchasers to increase awareness of opportunities to purchase recycled products.

(b) Recycled Paper

(1) State agencies are directed to purchase and use recycled paper for all letterhead stationery, reports, memoranda, and other documents when feasible and practicable. All new photocopiers purchased shall have the ability to use xerographic paper having at least 50% recycled content.

(2) State agencies shall attempt to meet the following goals for the percent of the total dollar value of all paper and paper products purchased having recycled content:

Fiscal Year 1993-94: at least 25%;

Fiscal Year 1994-95: at least 35%;

Fiscal Year 1995-96: at least 45%;

Fiscal Year 1996-97: at least 55%;

Fiscal Year 1997-98: at least 65%.

(c) Guidelines

The Division of Purchase and Contract and the Office of Waste Reduction shall develop guidelines for minimum content standards for recycled products purchased by state agencies.

(d) Departmental Review

State agencies that have delegated purchasing authority shall review their existing specifications to ensure that they do not contain restrictive language or other barriers to purchasing recycled products, unless such specifications are necessary to protect public health, safety, or welfare.

Section 6. REPORTING

(a) State Agency Annual Reports

On at least an annual basis, beginning October 1, 1994, each state agency shall report to the Office of Waste Reduction for the previous fiscal year the following information, at a minimum: activities or programs implemented to reduce the amount of waste generated by the agency; amounts and types of recycled products purchased; and amounts and types of materials collected for recycling by the agency.

(b) Annual Progress Report to Governor

The Office of Waste Reduction, in conjunction with the Department of Administration, shall provide guidance to agencies for preparing their annual reports. The Office shall compile the agency reports and provide an annual report to the Governor on progress by state government agencies in source reduction of waste, recycled products procurement, and collection of recyclable materials.

(c) Tracking Recycled Products Procurement

The Division of Purchase and Contract shall review its procurement tracking system and determine any changes needed to facilitate tracking of recycled products purchased by state agencies and others.

Section 7. EFFECT OF OTHER EXECUTIVE ORDERS

Executive Order 172 is hereby rescinded. All other Executive Orders or portions of Executive Orders inconsistent herewith are hereby rescinded.

Section 8. EFFECTIVE DATE

This Executive Order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina this 22nd day of April, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 9

COMMISSION FOR A COMPETITIVE NORTH CAROLINA

WHEREAS, the increasing globalization of economic relationships, the movement of goods, information, technology and capital across national boundaries, and the restructuring of national and state economies have changed the conditions for long-term economic success; and

WHEREAS, increasing the ability of North Carolina's people, communities, and enterprises to compete successfully in a global market place is vital to the long-term economic prosperity and quality of life for the citizens of this state; and

WHEREAS, building the long-term competitive capacity for the people, communities, and enterprises of North Carolina requires concerted and cooperative effort by the public sector, the private sector, and the nonprofit sector, and new forms of partnerships that involve the contributions that each sector is best positioned to make; and

WHEREAS, effective public sector action and successful partnerships are dependent upon a commonly shared view of long-term economic success, a clear understanding of the necessary roles each partner must play in achieving that success, and clear and specific measures of desired outcomes that focus the efforts of all partners; and

WHEREAS, the public sector must rethink its role as an effective partner for long-term development by becoming more entrepreneurial in action, by tying resources directly to desired long-term outcomes, by establishing clear benchmarks for measuring performance, by holding itself accountable to the people for measurable performance, and by instituting performance based budgeting to hold agencies and programs similarly accountable;

NOW THEREFORE, by the authority vested in me as Governor by the constitutions and laws of North Carolina and the United States, it is ORDERED:

Section 1. ESTABLISHMENT

The Commission for a Competitive North Carolina is hereby established to develop a long-term, comprehensive vision for competitive people, communities, and enterprises; to determine the appropriate role of state government in achieving that vision; to recommend changes in policies and programs compatible with that role; to define measurable outcomes to achieve the vision of competitive people, communities, and enterprises; and to establish performance measures for periodically measuring progress in achieving those outcomes.

Section 2. MEMBERSHIP.

The Commission shall consist of up to 40 members appointed by the Governor. The membership may include representatives of the private sector, the nonprofit sector, local government, and the NC General Assembly.

Section 3. CHAIR

The Governor shall serve as Chair of the Commission. The Governor will appoint one Vice Chair representing the private sector and one Vice Chair representing the nonprofit sector, who shall serve for two years.

Section 4. TASK FORCES.

The Governor shall also appoint chairs for the task forces of the Commission. The Governor, Vice Chairs, and the Task Force Chairs shall form the Steering Committee for the Commission. The task forces shall consist of members of the commission, plus such other resource persons as the Steering Committee shall designate. Task forces shall be organized on the following topics, plus such others as the Steering Committee shall designate as necessary to accomplish the mission of the Commission: the business environment, the people and the workforce, the natural environment, the physical and technological infrastructure, the international environment, and entrepreneurial governance.

Section 5. MEETINGS.

The Commission shall meet at the call of the Governor.

Section 6. PURPOSE.

The purpose of the Commission for a Competitive North Carolina is to prepare a long-term, comprehensive vision for competitive people, communities and enterprises in North Carolina; define measurable outcomes for achieving that vision; establish performance standards for periodically assessing progress toward that vision; recommend changes in methods of operation for state government programs and agencies to achieve that vision; and recommend a permanent organizational structure for monitoring performance measures and updating outcomes and recommendations. The Commission will prepare a final report to the people of North Carolina not later than fall, 1994 that includes necessary actions to accomplish the recommendations in that report.

The Commission shall, in the performance of its tasks and functions:

- Conduct a comprehensive review of all prior studies and reports by public or private entities in North Carolina relevant to the mission, tasks, and function of the Commission.

- Conduct a comprehensive review of all prior studies and reports by public or private entities relevant to the mission, tasks, and function of the Commission by other states, including Oregon, Florida, Minnesota, Arizona, and Texas.

- Conduct an examination of major industrial sectors in North Carolina to determine likely changes in response to long-term economic competitiveness and likely impacts on people, enterprises, and communities in North Carolina.

- Use focus groups and other appropriate methods to gather input from representatives of the public sector, the private sector, the nonprofit sector, and the citizens of this state on the most critical issues for long-term competitiveness, the relative priority of these issues, strategic goals, barriers to achieving those goals, and the aspirations of the people of this state for their children, their communities, their natural environment, and their economic opportunities.

- Gather such other data and information as may be necessary and useful for accomplishing the purpose of the Commission.

- Work cooperatively with other boards, commissions, and entities and take maximum advantage of their resources and activities that can provide useful information and insight to the purpose of this Commission.

- Propose a long-term vision for a competitive North Carolina that reflects the results of the studies, reviews, analyses, focus groups, public testimony, and other forms of insight that the Commission receives in the process of performing its tasks and functions.

- Propose measurable outcomes that will determine success in accomplishing that long-term vision.

- Propose performance measures to determine progress toward achieving those outcomes.

- Propose specific actions to enable the Governor and the legislature to take effective action to focus resources on strategic initiatives.

- Propose specific changes in the governance of relevant programs and activities in state government to enable them to focus more directly on desired outcomes and be held accountable for those outcomes; to operate as part of an efficient, integrated system; to engage in new forms of partnerships; to have an impact of significant scale and magnitude to accomplish desired long-term outcomes; and to operate effectively and efficiently in a rapidly changing environment to maintain and improve the competitiveness of North Carolina's people, communities, and enterprises in a global market place.

- Propose a permanent organizational structure that would monitor performance measures, update the recommendations in view of that performance and a changing environment, and issue periodic reports to the Governor, the legislature, and the people of North Carolina on the progress of the state in achieving the specified objectives.

- Prepare a final report on its findings and recommendations.

Section 7. COOPERATION OF STATE AGENCIES.

All state agencies shall cooperate with the Commission as it implements its tasks and functions. The Governor's Policy Office shall serve as coordinator of agency staff and other staff assistance to the Commission.

Section 8. ADMINISTRATION AND EXPENSES.

The Department of Administration shall provide necessary administrative and support services to fulfill the Commission's tasks and functions.

The Commission is authorized to accept grants, gifts, bequests, and other offers of assistance necessary to carry out its tasks and functions. The operating budget for the Commission shall derive solely from such grants, gifts, bequests, and other offers of assistance. Also, each state agency cooperating in the work of the Commission may provide additional funds from its own budget to support the Commission.

Members of the Commission and staff shall receive necessary travel and subsistence expenses in accordance with state law.

Section 9. EFFECTIVE DATE.

This Executive Order is effective immediately.

Done in the Capital City of Raleigh, North Carolina this 5th day of May, 1993.

James B. Hunt
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 10
ESTABLISHING THE QUALITY LEADERSHIP
AWARDS COUNCIL

By the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Establishment.

The Quality Leadership Awards Council ("Council") is hereby established. The Council shall have two subordinate committees: the Examination Board and the Recognition Committee. It may have other committees as well.

Section 2. Membership.

1. The Council shall consist of not more than thirty members, including:

A. the Secretary of Commerce, or his designee;

B. the President of the University of North Carolina System, or his designee;

C. the President of the System of Community Colleges, or his designee;

D. the Commissioner of Labor, or his designee;

E. a member recommended by the Lieutenant Governor;

F. a member recommended by the Speaker of the House;

G. the President of North Carolina Citizens for Business and Industry;

H. the Chair of the North Carolina Quality Leadership (NCQL) Foundation, or his designee;

I. two appointees by the Governor from the education or non-profit sectors;

J. no more than twelve ranking officials of organizations receiving a Quality Leadership Award ("Award") from the State;

K. four industrial representatives;

L. the Chair of the Commission on Workforce Preparedness; and

M. the Governor, or his designee.

2. The members of the Board of Examiners subordinate committee shall be drawn from professional and technical experts in total quality management and quality assurance-related fields. Members shall be invited to serve by the Council and shall serve at its pleasure.

3. The members of the Recognition Committee shall be drawn from business, industry, education, and government personnel concerned with award programs and public relations, especially representing industry associations and regional councils concerned with quality and productivity improvement. Members shall be invited to serve by the Council and shall serve at its pleasure.

Section 3. Chair, Terms, and Vacancies.

Those members under subsection (J) above shall serve three-year terms, which shall start in the year after winning the Award. The members under subsections (E) and (F) above shall serve at the pleasure of the Governor. The Governor shall fill all vacancies. However, should a vacancy occur in a seat held by a member recommended by the Lieutenant Governor or the Speaker of the House, the Governor shall fill that vacancy only after recommendation by the appropriate official. The Council shall elect its Chair from among its members.

Section 4. Purposes.

The purposes of the Council shall be:

A to enhance education and training of management and workforce, both current and future;

B. to improve competitiveness of North Carolina business and industry, especially supplier relationships;

C. to encourage exchange of information toward quality improvement, especially through regional councils and industry associations; and

D. to promote application of the seven principles of total quality management in North Carolina organizations.

Section 5. Duties.

1. The North Carolina Quality Leadership Awards Council shall have the following responsibilities:

A. approve and announce Quality Leadership Award ("Award") and Honor Roll recipients in the following

categories: manufacturing and service industries (large-, medium-, and small-sized); and education, government, health care, and non-profit institutions;

B. approve guidelines consistent with the principles of total quality management with which to examine applicant organizations;

C. approve appointments of Judges and Examiners;

D. arrange appropriate annual awards and recognition for recipients;

E. recommend changes in the awards process, in cooperation with the N.C.Q.L. Foundation;

F. cooperate with related education, training, technology
transfer, and research initiatives proposed by the N.C.Q.L. Foundation; and

G. arrange for a Master of Ceremonies in presenting the Awards.

2. The Board of Examiners shall:

A. conduct evaluation of applicant organizations by assessing applications, making recommendations, and conducting site visits of participating organizations;

B. recommend Award guidelines;

C. nominate Award recipients; and

D. recommend Examiners and Judges to the Council.

3. The Recognition Committee shall:

A. recommend the types of awards; and

B. recommend the format and timing of ceremonies.

Section 6. Administrative Support.

Operations support for the Council and Examination Board, including administrative and training activities, shall be provided by the NCQL Foundation staff. The Department of Commerce, the University of North Carolina System, and the System of Community Colleges may provide additional staff and administrative support on a voluntary basis.

Section 7. Rescission.

Executive Orders 119 and 166 of the Martin Administration are hereby rescinded.

This Order shall be effective immediately.

Done in Raleigh, North Carolina, this the 5th day of May, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 11
GOVERNOR'S COUNCIL OF FISCAL ADVISORS

WHEREAS, it is desirable that Governors have benefit of the combined counsel of those officials primarily responsible for the State's fiscal affairs. NOW THEREFORE, to accomplish that end and pursuant to authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment.

There is established the Governor's Council of Fiscal Advisors whose membership shall consist of:

(a) The State Treasurer

(b) The State Auditor

(c) The State Budget Officer

(d) The Secretary of the Department of Revenue

(e) The State Controller

(f) The Governor's General Counsel

(g) The Governor's Advisor for Policy

Section 2. Purpose.

The purpose of the Council shall be to consider and advise the Governor concerning the fiscal affairs of the State.

Section 3. Meetings.

(a) The Council shall meet with the Governor in regular sessions each quarter at such times as the Governor directs and in special session at the Governor's call.

(b) In addition, the Council shall meet without the Governor in regular session at such times as the Council selects and in special session at the call of the State Budget Officer.

(c) The Governor shall preside at all meetings of the Council at which he is present. The State Budget Officer shall preside at all meetings of the Council at which the Governor is not present. Agendas for all meetings of the Council shall be prepared by the State Budget Officer and distributed to attendees in advance of the meetings.

(d) Council members shall attend Council meetings in person and not by surrogates.

Section 4. Invitees.

In addition to Council members, the following are invited to attend and participate in Council meetings as the Governor's invitees:

(a) the Executive Assistant

(b) The Deputy State Budget Officer

(c) the Lieutenant Governor or his designee

(d) the Director of Fiscal Research for the North Carolina General Assembly or his designee.

Section 5. Attendance at other meetings.

Council members who are not members of the Council of State may attend meetings of the Council of State as invitees of the Governor. Council members who are not members of the Advisory Budget Commission may attend meetings of the Advisory Budget Commission as invitees of the Governor.

Section 6. Administration.

The Office of State Budget and Management shall provide staff and administrative support to the Council.

Section 7. Expenses.

Council members shall serve without compensation or reimbursement for expenditures incurred by them in attending Council meetings.

Section 8. Rescission of prior orders.

Executive Order Number 122 by Governor James G. Martin is hereby rescinded.

This executive order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 5th day of May, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 12
PUBLIC SCHOOL ADMINISTRATOR TASK FORCE

WHEREAS, this Administration has a goal of doing more with less in our public schools by increasing effectiveness and efficiency;

WHEREAS, business and industry leaders have built up valuable expertise in using this strategy;

WHEREAS, the most effective and efficient ratio of local public school administrators to teachers and students is not known;

NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Establishment.

There is hereby established a Public School Administrator Task Force ("Task Force").

Section 2. Membership and Terms

The Task Force shall consist of eight business and industry leaders with experience in improving effectiveness and efficiency

in their organizations. Two of the members shall be selected upon the recommendation of the Speaker of the House and two members shall be selected upon the recommendation of the Senate President Pro Tem. The remaining members shall be appointed by the Governor. The members shall serve for six months.

Section 3. Duties

The Task Force shall have the following duties:

(a) Analyze existing ratios of local public school administrators to teachers and students;

(b) Determine the ratio necessary to effectively and efficiently administer quality education at the local level;

(c) Develop guidelines for local public school administrators to follow in implementing more effective and efficient administration; and

(d) Report its findings and recommendations to the Joint Legislative Education Oversight Committee and to the State Board of Education.

Section 4. Administration and Expenses

The Task Force members shall be reimbursed for necessary travel and other expenses as allowed by North Carolina law. Administrative and staff support for the Task Force shall be provided by the Department of Administration.

This order is effective June 1, 1993, and shall terminate December 1, 1993.

Done in the Capital City of Raleigh, North Carolina, this the 7th day of May, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 13
AMENDING EXECUTIVE ORDER NUMBER 10,
CONCERNING THE QUALITY LEADERSHIP
AWARDS COUNCIL

By the authority vested in me as Governor by the laws and constitution of North Carolina, IT IS ORDERED:

Sections 2 and 3 of Executive Order Number 10 are hereby amended to read:

Section 2. Membership.

1. The Council shall consist of not more than thirty members, including:

. . .

J. No more than eleven ranking officials of organizations receiving a Quality Leadership Award ("Award") from the State;

. . .

N. A member recommended by the President Pro Tempore of the Senate.

Section 3. Chair, Terms, and Vacancies.

Those members under subsection (J) above shall serve three-year terms, which shall start in the year after winning the Award. The members under subsections (E), (F), and (N) above

shall serve at the pleasure of the Governor. The Governor shall fill all vacancies. However, should a vacancy occur in a seat held by a member recommended by the Lieutenant Governor, the Speaker of the House, or the President Pro Tempore of the Senate, the Governor shall fill that vacancy only after recommendation by the appropriate official. The Council shall elect its Chair from among its members.

This Executive Order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 20th day of May, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina

JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 14
AMENDING EXECUTIVE ORDER 1
CONCERNING THE BOARD OF ETHICS

By the authority vested in me as Governor by the laws and Constitution of this State, IT IS ORDERED:

Section 5 of Executive Order 1, is hereby amended to delete subsection (b) (which prohibits a full-time State employee subject to the Order from holding any other public employment for compensation). Subsection (c) shall be redesignated (b), but shall otherwise remain the same.

This Order is effective immediately.

Done in Raleigh, North Carolina, this 20th day of May, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 15
COORDINATING COMMITTEE ON THE
AMERICANS WITH DISABILITIES ACT

WHEREAS, the Americans with Disabilities Act ("ADA") was enacted by the United States Congress on July 26, 1990, to expand the civil rights of individuals with disabilities in the areas of employment, transportation, public accommodations and communications; and

WHEREAS, the primary objective of the ADA is to require employers and public service providers to eliminate barriers, practices, or policies that may deprive individuals with disabilities of the full use and enjoyment of public buildings, employment, transportation, accommodations, and communications; and

WHEREAS, a process for informing state agencies of their responsibilities under the ADA and alternatives for fulfilling those responsibilities, and for resolving disputes about those responsibilities, would assist the State in implementing the ADA;

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Establishment

There is hereby established the Coordinating Committee on the ADA.

Section 2. Purpose

The Committee shall bring representatives from every state agency together to coordinate each agency's self-evaluation and compliance planning under the ADA.

Each agency shall develop and implement forthwith its ADA Compliance Plan. Individuals with disabilities must have full access to public buildings, employment, transportation, accommodations, and communications as soon as possible.

Section 3. Duties

The Committee shall be responsible for the following:

(a) coordinating agency compliance with the ADA as it relates to other federal and state laws and regulations affecting individuals with disabilities;

(b) informing and advising state agencies about their obligations and means for meeting obligations under the ADA such as self evaluations, job task analyses, procedures to handle requests for accommodations, facility and communications accessibility, transportation, and deadlines for action;

(c) facilitating the adoption and publication of formal and informal grievance procedures within each agency to promptly and equitably resolve complaints of agency noncompliance with the ADA; with particular emphasis

on the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, hearings, and arbitration, as appropriate and authorized by law;

(d) supervising the implementation and periodic revision of an ADA Transition Plan for each agency regarding the removal of environmental and communication barriers in state facilities, whether owned or leased;

(e) providing a forum for speakers to inform the Committee and others in state government about developments concerning acceptable accommodations, cost effectiveness data for equipment and transportation alternatives, hiring practices and case law; and

(f) ensuring that its decisions and those of its member agencies in creating their ADA Compliance Plans are made with the input of employees with disabilities or representatives of organizations which serve disabled persons.

Section 4. Membership

The following individuals or their designees shall serve as members of the Committee:

(1) Lieutenant Governor

(2) Secretary of State

(3) Attorney General

(4) State Treasurer

(5) Superintendent of Public Instruction

(6) Commissioner of Insurance

(7) Commissioner of Agriculture

(8) Commissioner of Labor

(9) State Auditor

(10) President Pro Tempore of the Senate

(11) Speaker of the House of Representatives

(12) Chief Justice of the Supreme Court of North Carolina

(13) President of the University of North Carolina System

(14) President of the System of Community Colleges

(15) Secretary of Commerce

(16) Secretary of Environment, Health and Natural Resources

(17) Secretary of Crime Control and Public Safety

(18) Secretary of Cultural Resources

(19) Secretary of Human Resources

(20) Secretary of Transportation

(21) Secretary of Correction

(22) Secretary of Administration

(23) Secretary of Revenue

(24) Director of the Office of State Personnel

Section 5. Chairperson

The Chairperson shall be the Secretary of Administration or her designee, who shall serve at the Governor's pleasure. The Chairperson may designate smaller subcommittees, divided according to expertise, to work on pertinent topics and report to the full Committee.

Section 6. Meetings

The Committee shall meet not less than quarterly at the call of the chairperson.

Section 7. Quorum

A simple majority of the members shall constitute a quorum for the purpose of conducting business.

A vote will require a simple majority of the members of the Committee present.

Section 8. Reports

(a) The Committee shall prepare a report to the Governor on or before October 1, 1993, and annually thereafter.

(b) The Committee shall report quarterly to the Joint Legislative Commission on Governmental Operations.

Section 9. Administration

Members of the Coordinating Committee shall receive necessary travel and subsistence expenses in accordance with the provisions of N.C.G.S. 120-3.1 or 138.5.

The Department of Administration shall provide administrative and staff support services required by the Coordinating Committee. While no one from the Governor's Advocacy Council for Persons with Disabilities (GACPD) shall be a member of the Committee, GACPD shall provide the Committee with technical assistance on behalf of people with disabilities and serve as an information clearinghouse.

Section 10. Effect on Other Executive Orders

Executive Order Number 179 of the Martin Administration is hereby rescinded. All other Executive Orders or portions of Executive Orders inconsistent herewith are hereby rescinded.

Section 11. Effective Date

This executive order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the

20th day of May, 1993.



James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 16
THE GEOGRAPHIC INFORMATION COORDINATING COUNCIL
AND
THE CENTER FOR GEOGRAPHIC INFORMATION AND ANALYSIS

WHEREAS, geographic information is an important strategic resource for the State of North Carolina;

WHEREAS, increasingly complex decisions, overlapping governmental responsibilities, and limited financial resources demand that agencies work together to develop and utilize geographic information;

WHEREAS, North Carolina has a history of effective utilization of geographic information and geographic information systems ("GIS") technology both at the State and Local level;

WHEREAS, geographic information and GIS technology are now being developed and used by many agencies and organizations in North Carolina;

WHEREAS, geographic information and GIS technology can only be fully and practically utilized with a statewide focus and cooperative effort;

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment.

With the concurrence of the Information Resource Management Commission ("IRMC"), there is hereby reestablished the Geographic Information Coordinating Council ("Council").

Section 2. Duties.

The Council shall guide the Center for Geographic Information and Analysis ("CGIA") and establish the State's direction in the utilization of geographic information, GIS systems, and other related technologies. The Council is responsible for (a) strategic planning, (b) resolution of policy and technology issues, (c) coordination, direction and oversight, and (d) advising the Governor, the Legislature, and the IRMC as to needed directions, responsibilities, and funding regarding geographic information. This statewide geographic information coordination effort seeks to further cooperation among State, Federal and Local government agencies; academic institutions; and the private sector to improve the quality, access, cost-effectiveness and utility of North Carolina's geographic information and to promote geographic information as a strategic resource for the State.

Section 3. Center for Geographic Information and Analysis.

Coordination of geographic information is the responsibility of the CGIA. This responsibility includes GIS production and consulting services; technical support including assistance in

planning, installing, and using GIS systems; a wide variety of GIS-related training services and education programs; a clearinghouse for the exchange of geographic information and services; and staff support for the Council and its committees. CGIA reports to the Office of State Planning.

Section 4. Membership.

The Council shall consist of 17 members, or their designees, as follows:

a) The Secretary of the Department of Environment, Health and Natural Resources;
b) The Secretary of Transportation;
c) The Secretary of Administration;
d) The Secretary of Commerce;
e) The Secretary of State;
f) The Commissioner of Agriculture;
g) The Superintendent of Public Instruction;
h) The head of an at-large State agency to be appointed by the Governor;
i) The State Budget Officer;
j) The State Planning Officer;
k) One representative elected annually from the State Government User Committee;
l) One representative elected annually from the Affiliated User Group Committee;
m) One representative employee of a County Government to be appointed by the Governor;
n) One representative employee of a Municipal Government to be appointed by the Governor;
o) One representative employee of the Federal Government, who is stationed in North Carolina, to be appointed by the Governor;
p) One representative from the Lead Regional Organizations, to be appointed by the Governor; and
q) One non-government representative in North Carolina, to be appointed by the Governor.

The Deputy State Controller for Information Resource Management shall serve as a non-voting, ex officio member. The Governor shall appoint a Chair from among the membership to serve for a one-year period. Except for members "a-g" and "i-l" above, each member shall serve three-year terms.

Section 5. Administration and Expenses.

The Director of CGIA shall be secretary of the Council and provide staff support as it requires. Members of the Council shall receive necessary travel and subsistence expenses as allowed by North Carolina law.

Section 6. Committees.

The Council may establish work groups as needed, and shall oversee the following standing committees:

a) State Government GIS User Committee: Membership shall consist of representatives from all interested State government departments. The committee shall elect its Chair and advise the Council on issues, problems, and opportunities relating to GIS.

b) State Mapping Advisory Committee ("SMAC"): The Council shall select the Chair of SMAC, which shall be organized and operated in a manner acceptable to the United States Geological Survey's ("USGS") National Mapping Division. Membership shall not be limited. Members from Federal agencies may not vote, but the Council, upon recommendation by the SMAC Chair, may permit other members to vote.

   The SMAC shall consolidate statewide mapping requirements into a single annual report to the USGS; inform the users of geographic information about the status of mapping programs and the availability of map materials from USGS; and attempt to gain statewide support for financing cooperative programs with USGS. The Committee shall also advise the Council on issues, problems, and opportunities relating to USGS programs and information.

c) Affiliated GIS User Group Committee: Membership shall consist of representatives from Local and Federal government, private industry, universities, and the General Assembly. The committee shall elect its Chair and advise the Council on issues, problems, and opportunities relating to the use of GIS systems.

Section 7. Rescission.

Executive Order 147 of the Martin Administration is hereby rescinded.

This Order is effective immediately.

Done in the Capital City of Raleigh, this 21st day of May, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 17
NORTH CAROLINA EMERGENCY RESPONSE COMMISSION

WHEREAS, the Emergency Planning and Community Right-to-Know Act of 1986 enacted by the United States Congress, requires the Governor of each state to appoint a State Emergency Response Commission.

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Creation.

There is created the North Carolina Emergency Response Commission, hereinafter referred to as the "Commission." The Commission shall consist of not less than eleven members and shall be composed of at least the following persons:

Director, Division of Emergency Management, Department of Crime Control and Public Safety, who shall serve as Chairperson.

Coordinator, State Highway Patrol Hazardous Materials, Department of Crime Control and Public Safety;

Safety Director, Department of Agriculture;

Supervisor, Facilities Assessment Unit, Division of Environmental Management, Department of Environment, Health and Natural Resources;

Director, Solid Waste Management Division, Department of Environment, Health and Natural Resources;

Director, Radiation Protection Division, Department of Environment, Health and Natural Resources;

Director, Office of Waste Reduction (Pollution Prevention Program), Department of Environment, Health and Natural Resources;

Director, Emergency Planning, Division of Highways, Department of Transportation;

Chief, Transportation Inspection, Division of Motor Vehicles (Enforcement Section), Department of Transportation;

Manager, Training/Standards Program, Fire and Rescue Services Division, Department of Insurance;

Chief, Emergency Medical Services, Division of Facility Services, Department of Human Resources; and

Six at-large members from local government and private industry with technical expertise in the emergency response field may be appointed by the Governor and serve for terms of two (2) years at the pleasure of the Governor.

Section 2. Duties.

The Commission is designated as the State Emergency Response Commission as described in the Act and shall perform all duties required of it under the Act, including, but not limited to, the following:

(a) Appoint local emergency planning committees described

under Section 301(c) of the Act and supervise and coordinate the activities of such committees.

(b) Establish procedures for reviewing and processing requests from the public for information under Section 324 of the Act.

(c) Designate emergency planning districts to facilitate preparation and implementation of emergency plans as required under Section 301(b) of the Act.

(d) After public notice and opportunity for comment, designate additional facilities that may be subject to the Act under Section 302 of the Act.

(e) Notify the Administrator of the Environmental Protection Agency of facilities subject to the requirements of Section 302 of the Act.

(f) Review the emergency plans submitted by local emergency planning committees and make recommendations to the committees on revisions of the plans that may be necessary to ensure coordination of such plans with emergency response plans of other emergency planning districts.

Section 3. Administration.

(a) The Department of Crime Control and Public Safety shall provide administrative support and staff as may be required.

(b) Members of the Commission shall serve without compensation but may receive reimbursement, contingent on the availability of funds, for travel and subsistence expenses in accordance with state guidelines and procedures.

Section 4. Effect on other Executive Orders.

The following Executive Orders of the Martin Administration are hereby rescinded: Numbers 43, 48, 50, and 165. All other portions of Executive Orders inconsistent herewith are also rescinded.

This Executive Order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 16th day of June, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 18

EMERGENCY MANAGEMENT PROGRAM

WHEREAS, the natural phenomena such as hurricanes, floods, tornadoes, severe winter weather, droughts, earthquakes, and man-made disasters such as explosions or major electric power failures are an ever-present danger; and

WHEREAS, potential enemies of the United States now possess the capability of launching attacks and unprecedented destruction upon this State and nation, from land, sea and air; and

WHEREAS, it is the duty of the Department of Crime Control and Public Safety to provide emergency services to protect the public against natural and man-made disasters; and

WHEREAS, it is the duty of the Department of Crime Control and Public Safety to ensure the preparation, coordination, and readiness of emergency management and military plans and effective conduct of emergency operations by all participating agencies in order to sustain life and prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes; and

WHEREAS, the Emergency Management Act of 1977, as amended, N.C.G.S. 166A-1, et seq., the North Carolina Emegency War Powers Act, N.C.G.S. 147-33.1, et seq., and Article 36A of Chapter 14 of the General Statutes confer upon the Governor comprehensive powers to be exercised in providing for the common defense and protection of the lives and property of the people of this State against both man-made and natural disasters; and

WHEREAS, the effective exercise of these emergency powers requires extensive initial planning, continued revision and exercising of plans, assignment of emergency management functions prior to the occurrence of an emergency, the training of personnel in order to ensure a smooth, effective application of governmental functions to emergency operations, and the quick response of all necessary State resources; and

WHEREAS, these emergency management functions are intended to be and can be accomplished most effectively through those established activities of state and local government whose normal functions relate to those emergency services which would be needed;

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the laws and the Constitution of North Carolina, IT IS ORDERED:

Section 1. Coordination of Services.

In the event the Governor, in the exercise of his constitutional and statutory responsibilities, shall deem it necessary to utilize the service of more than one subunit of state government to provide protection to the people from natural or man-made disasters or emergencies, including, but not limited to,

wars, insurrections, riots, civil disturbances, or accidents, the Secretary of Crime Control and Public Safety, under the direction of the Governor, shall serve as the chief coordinating officer for the State between the respective subunits so utilized, as provided in N.C.G.S. 143B-476.

Section 2. Response to Emergency.

Whenever the Secretary of Crime Control and Public Safety exercises the authority provided in Section 1, he shall be authorized to utilize and allocate all available state resources as are reasonably necessary to cope with the emergency or disaster. His authority includes the direction of personnel and functions of state agencies for the purpose of performing or facilitating the initial response to the disaster or emergency. Following the initial response, the Secretary, in consultation with the heads of the state agencies which have, or appear to have, responsibility for dealing with the emergency or disaster, shall designate one or more lead agencies to be responsible for subsequent phases of the response to the emergency or disaster. Pending an opportunity to consult with the head of such agencies, the Secretary may make interim lead agency designations.

Section 3. Reporting.

Every department of state government is required to report to the Secretary of Crime Control and Public Safety, by the fastest means practicable, all natural or man-made disasters or emergencies, which appear likely to require the utilization of the services of more than one subunit of State government.

Section 4. Delegation of Authority.

The Secretary of Crime Control and Public Safety is hereby authorized to delegate the authority to utilize and allocate all available state resources as may be necessary to carry out the intent of this order.

Section 5 . Publication of Emergency Plans.

An explanation of the emergency management functions assigned to each state department, division, subdivision, or agency is contained in the state plans developed and published by the Division of Emergency Management of the North Carolina Department of Crime Control and Public Safety. The provisions of these documents, including attached annexes and any future revisions, are specifically incorporated herein by reference.

Section 6 . Supporting Plans.

The heads of the departments of state government and other agencies designated in the state emergency plans are granted the authority, and charged with the responsibility, to develop supporting plans and procedures. Upon orders of the Governor, Secretary of Crime Control and Public Safety, or his designee, these personnel shall execute the emergency management functions assigned to them in the emergency plans.

Section 7. Revision of Plans.

The Secretary of Crime Control and Public Safety is hereby authorized to update and periodically revise or cause to be revised the state emergency plans and supporting plans to ensure that they will be current and consistent with the functions, duties, and capabilities of a given department or agency.

Section 8. Liaisons.

The head of each department, agency, commission or office of state government that is charged with emergency management responsibilities shall designate personnel to perform liaison functions with all other components of state government on matters pertaining to emergency management activities.

Section 9 . Procedures.

The heads of state government departments assigned emergency management functions shall prepare procedures to procure from governmental and private sources all materials, manpower, equipment, supplies, and services necessary to carry out these assigned functions. Each agency of state government shall cooperate with all other agencies of state government to assure the availability of resources in an emergency.

Section 10. Effect on Other Executive Orders.

Executive Order Number 73 of the Martin Administration is hereby rescinded.

This Order shall become effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 16th day of June, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 19
CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE

By the Power vested in me as Governor by the laws and Constitution of North Carolina, IT IS ORDERED:

Section 1. Establishment.

There is hereby established a Center for the Prevention of School Violence ("Center") within the Governor's Crime Commission Division of the Department of Crime Control and Public Safety ("DCCPS").

Section 2. Duties.

A. To work with representatives from State agencies, local schools, law enforcement, and the juvenile justice system to identify problems and develop recommendations and procedures to stem the tide of school violence.

B. To serve as a clearinghouse of information concerning school violence, possibly including regional workshops on appropriate topics.

C. To facilitate training, coordinating and focusing of resources at the local level.

D. To advise the Secretary of DCCPS concerning grant awards

to reduce school violence, which are administered by the Governor's Crime Commission Division .

Section 3. Administration.

The Center is authorized to accept funds from sources other than appropriations by the North Carolina General Assembly. Such funds will be administered by the DCCPS.

Section 4. Board of Directors.

The following ex officio members of the Governor's Crime Commission shall serve as the Center's Board of Directors:

A) the Secretary of Crime Control and Public Safety;

B) the Attorney General;

C) the Superintendent of Public Instruction;

D) the Secretary of the Department of Human Resources; and,

E) the Juvenile Services Administrator of the Administrative Office of the Courts.

This Order is effective immediately.

Done in Raleigh, North Carolina, this the 30th day of June, 1993.

James B. Hunt, Jr.
Governor

ATTEST:

Rufus Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 20
TO DESIGNATE 1994 AS THE YEAR OF THE COAST AND
TO CREATE A COASTAL FUTURES COMMITTEE
ON COASTAL AREA MANAGEMENT

WHEREAS, North Carolina's coastal ocean, lands, and waters are among the state's most valuable and productive resources; and

WHEREAS, the coastal area is a vital part of North Carolina's history, culture and economy; and

WHEREAS, its beauty and traditions draw people to visit and live in the coastal area; and

WHEREAS, the North Carolina Coastal Area Management Act of 1974 ("CAMA") was enacted because of an immediate and pressing need to establish a comprehensive plan for the protection, preservation, orderly development and management of the twenty coastal counties in North Carolina; and

WHEREAS, the Act was the nation's pioneering effort to establish a planning and regulatory program for managing coastal resources; and

WHEREAS, during the 1980's, the population of the coastal zone grew at a rate of almost twice that of the entire state; and

WHEREAS, the coastal area is experiencing greater pressures and more conflicting needs than ever before; and

WHEREAS, great care must be taken to continue to protect our estuaries, barrier islands, marshes, and maritime forests; and

WHEREAS, the year 1994 is the 20th anniversary of the enactment of CAMA, it is a fitting time to assess the our management of the coastal area, celebrate our coastal resources and chart a clear course of action for our coastal future.

NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Year of the Coast.
Nineteen ninety-four is proclaimed the Year of the Coast.

Section 2. Establishment.
The Coastal Futures Committee ("Committee") is hereby established.

Section 3. Membership and Terms.
The Governor shall appoint 15 persons to serve on the Committee and shall designate one of its members to serve as Chair and one to serve as Vice Chair. The Committee shall meet regularly to carry out its duties at the call of the Chair.

Section 4. Powers and Duties of the Committee.

A. To study the North Carolina coastal management program and similar programs in other states as it deems appropriate.

B. To identify major coastal management issues to be analyzed in depth.

C. To develop a set of recommendations to effectuate the purposes of this Order through such activities as meetings, fact-finding tours, educational events, and in-depth reports.

D. To submit a final report to the Governor, Coastal Resources Commission, and the Coastal Resources Advisory Council by September 1, 1994 which will include an assessment of appropriate future directions or options for the coastal management program, including recommendations for administrative and legislative action.

E. To arrange for such celebrations of the 20th anniversary of CAMA as it deems appropriate, including such activities as a national conference on coastal management.

F. To focus media and public attention on the results of CAMA and the value of citizen involvement in coastal planning.

G. To coordinate its efforts with local officials and events and to help promote coastal events.

H. To perform and exercise such other duties and powers as may be necessary to accomplish the purposes of this Executive Order.

Section 5. Administration.

The Governor shall designate a state employee to serve as Executive Secretary, provide professional assistance and background information to the Committee, and coordinate its activities. The Secretary of the Department of Environment, Health and Natural Resources ("DEHNR") shall maintain the official minutes and other records of the Committee, and shall work in partnership with universities and the private nonprofit sector to furnish staff assistance, educational and research materials, and administrative support which the Committee may require.

The Committee is authorized to accept donations of in-kind services and funds, subject to the Executive Budget Act. Donations from government agencies shall be administered by DEHNR. The North Carolina Coastal Federation, a 501(c)(3) nonprofit organization, has agreed to raise and administer donations from other than government entities. Members of the Committee shall receive necessary travel and subsistence expenses pursuant to General Statute 138-5.

The Committee shall be considered a "public body" and its meetings shall be open to the public pursuant to General Statutes Chapter 143, Article 33C. The Committee, for administrative purposes only, shall be located in DEHNR.

This Executive Order shall be effective immediately. The Committee shall cease to exist once the final report is issued.

Signed in Raleigh, North Carolina, this 15th day of July, 1993.

James B. Hunt, Jr.,
Governor

ATTEST:

Rufus L. Edmisten,
Secretary of State

NUMERICAL INDEX TO SENATE AND HOUSE BILLS

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Ratified Number refers to the Session Law Chapter number except when preceeded by an R, in which case it refers to the Resolution number.

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8	482	158	371	496	357
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59	290	219	406	546	58
60	471	221	30	549	403
63	382	222	104	550	216
64	483	227	268	551	106
68	R5	335	10	558	555
70	311	341	241	559	270
71	78	385	166	563	183
84	388	386	210	572	448
90	197	393	407	575	530
97	8	422	303	577	114
99	18	431	540	578	217
100	466	442	292	579	120
103	3	447	26	586	504
110	38	455	119	590	422
117	291	457	33	592	211
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128	467	466	242	600	531
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621	384	796	441	939	331
622	506	799	489	942	414
625	488	802	343	950	376
628	287	804	79	954	464
630	330	806	460	955	150
631	375	808	449	961	493
633	337	809	358	970	332
643	423	811	122	971	151
649	168	812	244	976	R11
652	389	817	271	981	379
657	172	821	344	982	91
658	459	822	345	983	108
659	507	825	115	989	509
666	128	832	532	992	404
679	338	834	305	994	109
681	339	836	490	1003	473
682	235	839	141	1006	295
684	236	840	123	1007	198
688	81	841	116	1017	R30
689	304	842	390	1018	494
692	410	846	107	1019	312
699	25	851	272	1021	510
702	158	853	544	1025	442
708	42	855	418	1057	161
709	340	859	306	1070	192
710	545	860	461	1074	533
711	159	861	54	1082	296
720	89	863	359	1097	110
724	355	865	245	1111	495
726	243	868	218	1112	496
727	52	873	412	1113	129
729	341	875	348	1121	391
730	160	876	175	1124	405
744	257	878	117	1139	313
748	258	884	169	1141	443
767	174	885	293	1148	547
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777	53	913	492	1164	273
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43	1	230	537	424	276
46	380	235	550	426	15
56	176	246	R21	428	65
57	314	249	R27	430	200
58	9	250	R28	435	35
81	12	251	R29	436	125
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94	16	265	133	440	R6
97	219	277	538	446	223
101	334	278	539	450	431
102	465	281	534	452	134
105	360	283	47	456	277
106	427	284	392	457	347
114	549	292	393	461	111
115	498	296	R26	466	246
124	512	297	515	471	180
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136	255	319	220	474	278
141	39	320	221	476	213
143	82	339	153	483	394
144	6	346	193	485	361
152	428	364	516	490	201
156	46	365	124	491	224
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538	517	668	204	826	302
539	552	677	72	828	228
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545	308	681	400	838	138
547	323	686	520	840	229
552	386	687	264	841	284
553	136	692	265	842	195
554	350	694	73	843	433
556	351	696	84	844	381
558	145	700	181	847	171
559	69	713	99	856	266
561	214	715	205	859	454
563	352	720	432	860	267
564	112	726	113	862	455
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569	146	731	280	867	77
570	262	734	309	869	139
575	247	735	310	870	156
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581	263	737	186	874	456
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621	71	796	76	923	354
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624	398	801	100	935	522
625	324	802	426	936	230
627	185	803	154	937	209
630	319	804	101	938	231
634	127	808	50	944	299
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639	475	812	207	957	367
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982	470	1061	402	1172	439
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1009	327	1095	525	1260	502
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